



EXHIBIT

Annamarie Trombetta <artofannamarie@gmail.com>

Annamarie Trombetta

#2

Annamarie Trombetta <artofannamarie@gmail.com>
To: scelsa/joseph <jvscelsa@italianamericanmuseum.org>

Wed, Nov 23, 2022 at 1:15 PM

Hello Dr. Scelsa,

I wanted to wish you a Happy Thanksgiving . I also wanted to touch base with you about my case.

At the end of the Conference Call today I mentioned a Settlement Conference to the Judge and both Defendants declined any offers.

I also stated to the Judge that the Expert witness reports which are due on December 12, 2022 but that with the Holiday Season this may not be possible.
I have to make an application to the Court for an extension.

When you can please call me to discuss the production of the report.
With Appreciation,
Annamarie Trombetta
Tel (212) 427-5990

EXHIBIT #3

NOVEMBER 23, 2022

SOURCE INFORMATION

EMAIL

EXHIBIT

Gmail - Email



#3 A

Annamarie Trombetta <atrombettaart@gmail.com>

Email

Bialek, Adam <Adam.Bialek@wilsonelser.com>

Wed, Nov 23, 2022 at 11:33 AM

To: Annamarie Trombetta <annamarietrombettalegal@outlook.com>, Annamarie Trombetta <atrombettaart@gmail.com>, "ajd@hoganduff.com" <ajd@hoganduff.com>, "ajd@andersonjduff.com" <ajd@andersonjduff.com>

Cc: "Farmer, Jana S." <Jana.Farmer@wilsonelser.com>, "Haimson, Nicole" <Nicole.Haimson@wilsonelser.com>

Here is the Source Information from the email that I was able to capture. Being sent as a courtesy.

<html><head>

```
</head><body><div dir="ltr"><br><div class="gmail_quote">----- Forwarded message -----<br>From:
<b class="gmail_sendername">eBay</b> <span dir="ltr">&lt;<a href="mailto:ebay@ebay.com">eb
ay@ebay.com</a>&gt;</span><br>Date: Sat, Dec 1, 2012 at 9:54 PM<br>Subject: Your eBay item sold!
1972 Original Oil Painting Man With Red Umbrella Signed Annamarie Trombetta yqz (330833102936)
<br>To: <a href="mailto:ebay@novocin.com">ebay@novocin.com</a><br><br><br><div><div id="m_
3729392004584666707Header"><div><table border="0" cellpadding="0" cellspacing="0" width="100%">
<tbody><tr><td width="100%" style="word-wrap:break-word"><table cellpadding="2" cellspacing="3"
border="0" width="100%"><tbody><tr><td width="1%" nowrap=""></td><td align="left" valign="bottom">
<span style="font-weight:bold;font-size:xx-small;font-family:verdana,sans-serif;color:#666"><b>eBay sent
this message to Norb & Marie Novocin (estateauctionsinc).</b><br></span><span style="font-size:xx-
small;font-family:verdana,sans-serif;color:#666">Your registered name is included to show this message
originated from eBay. <a href="http://pages.ebay.com/help/confidence/name-userid-emails.html"
target="_blank">Learn more</a>.</span></td></tr></tbody></table></td></tr></tbody></table></div></div>
<div id="m_3729392004584666707Title"><div><table style="background-color:#ffe680" border="0"
cellpadding="0" cellspacing="0" width="100%"><tbody><tr><td width="8" valign="top"></td><td valign="bottom"
width="100%"><span style="font-weight:bold;font-size:14pt;font-family:arial,sans-serif;color:#000;margin:
2px 0 2px 0">Congratulations, your item sold!</span></td><td width="8" valign="top" align="right"></td></tr><tr><td
style="background-color:#fc0" colspan="3" height="4"></td></tr></tbody></table></div></div><div id="m_
3729392004584666707SingleItemCTA"><div><table border="0" cellpadding="2" cellspacing="3"
width="100%"><tbody><tr><td><font style="font-size:10pt;font-family:arial,sans-serif;color:#000">Dear
estateauctionsinc,<table border="0" cellpadding="0" cellspacing="0" width="100%"><tbody><tr><td></td></tr></tbody></table>You did it! Your
item sold. Please ship this item to the buyer after your buyer pays. As soon as your buyer pays, print your
eBay shipping label.<table border="0" cellpadding="0" cellspacing="0" width="100%"><tbody><tr><td></td></tr></tbody></table><div>Complete one
of the following:<br><ul style="list-style-type:disc;margin:10px 10 10 14px"><li><a
href="http://rover.ebay.com/rover/0/e12011.m354.l1337/7?euid=45d0df16f2ea40759d3656f834970b
06&loc=http%3A%2F%2Fpayments.ebay.com%2Fws%2FEBayISAPI.dll%3FPrintPostage%
26transactionid%3D0%26itemid%3D330833102936%26ssPageName%
3DADME%3AL%3AEOISSA%3AUS%3A1337" target="_blank">Print a shipping label</a> Avoid a trip to
the post office, print and pay for your label at home. Printing shipping labels on eBay also offers you
reduced pricing on some shipping services, and when you print shipping labels on eBay, your tracking
information is uploaded automatically.</li><li><a href="http://rover.ebay.com/rover/0/e12011.m354.l1663/7?
euid=45d0df16f2ea40759d3656f834970b06&loc=http%3A%2F%2Fpayments.ebay.com%2Fws%
2FEBayISAPI.dll%3FAddTrackingNumber%26flow%3Dmyebay%26LineID%
3D330833102936_0%26ssPageName%3DADME%3AL%3AEOISSA%3AUS%3A1663"
target="_blank">Provide shipping and tracking information</a>. When you upload tracking information to
eBay, we'll send it to your buyer and let them know the item is on its way. This will save you time, and may
result in fewer questions from buyers and higher detailed seller ratings.</li></ul></div></div>
```

Plaintiff000826

49701
Paint#0000827

Gmail - Email

06&loc=http%3A%2F%2Fmy.ebay.com%2Fws%2FeBayISAPI.dll%3FMyeBay%26CurrentPage%3DMyeBaySold%26ssPageName%3DADME%3AL%3AEOISSA%3AUS%3A1121" title="http://rover.ebay.com/rover/0/e12011.m44.l1121/7?euid=45d0df16f2ea40759d3656f834970b06&loc=http%3A%2F%2Fmy.ebay.com%2Fws%2FeBayISAPI.dll%3FMyeBay%26CurrentPage%3DMyeBaySold%26ssPageName%3DADME%3AL%3AEOISSA%3AUS%3A1121" target="_blank">
</div></td></tr></tbody></table>
</div></div><div id="m_3729392004584666707OneClickDigestOrUnsubscribe"><div><div class="m_3729392004584666707cub-cwrp"><h3 class="m_3729392004584666707cub-chd">Select your email preferences</h3><div class="m_3729392004584666707cub-cnt"><ul class="m_3729392004584666707cub-ulst">Want to reduce your inbox email volume? Receive this email as a daily digest.
For other email digest options, go to Notification Preferences in My eBay.
Don't want to receive this email? Unsubscribe from this email.
</div></div></div><div id="m_3729392004584666707MarketPlaceSafetyTip"></div><div id="m_3729392004584666707Footer"><div><hr style="HEIGHT:1px"><table border="0" cellpadding="0" cellspacing="0" width="100%"><tbody><tr><td width="100%">Email reference id: [#<wbr>45d0df16f2ea40759d3656f834970b06#]
Please don't remove this number. eBay customer support may ask you for this number, if you should need assistance.</td></tr></tbody></table>
</div><hr style="HEIGHT:1px"><table border="0" cellpadding="0" cellspacing="0" width="100%"><tbody><tr><td width="100%">Learn More to protect yourself from spoof (fake) emails.

eBay sent this email to you at ebay@novocin.com about your account registered on www.ebay.com.

eBay sends these emails based on the preferences you set for your account. To unsubscribe from this email, change your communication preferences. Please note that it may take up to 10 days to process your request. Visit our Privacy Policy and User Agreement if you have any questions.

Copyright © 2012 eBay Inc. All Rights Reserved. Designated trademarks and brands are the property of their respective owners. eBay and the eBay logo are trademarks of eBay Inc. eBay Inc. is located at 2145 Hamilton Avenue, San Jose, CA 95125. </td></tr></tbody></table></div></div></div>
</div></body></html>

Adam Bialek
Attorney at Law
Wilson Elser Moskowitz Edelman & Dicker LLP
150 E 42nd Street
New York, NY 10017
212.915.5143 (Direct)
917.538.0616 (Cell)
212.490.3000 (Main)
212.490.3038 (Fax)
adam.bialek@wilsonelser.com

From: Bialek, Adam
Sent: Thursday, November 17, 2022 1:33 PM
To: Annamarie Trombetta <annamarietrombettalegal@outlook.com>; Annamarie Trombetta <atrombettaart@gmail.com>; ajd@hoganduff.com; ajd@andersonjduff.com

Plaintiff000828

Gmail - Email

Cc: Farmer, Jana S. <Jana.Farmer@wilsonelser.com>; Haimson, Nicole <Nicole.Haimson@wilsonelser.com>
Subject: FW: Email

I note that as of late there has been quite a few emails floating about looking for the complete document regarding the sale of the painting. I just came across this which was exchanged during the deposition of the Novicins. Hopefully, this issue is now resolved and we can start reducing the issues that need to be raised on the call with the Court next week. I suggest that we put together an agenda of items to be addressed with the Court next week and see if we can meet and confer on a resolution of as many as we can.

[Quoted text hidden]

[Quoted text hidden]

EXHIBIT
#3D

EXHIBIT # 4

NOVEMBER 23, 2022

ELECTRONIC ORIGINAL
MESSAGE EMAIL PRINT OUT

SOURCE INFORMATION

EMAIL

Original Message

Message ID	<21BC38C09AD4514693C6FCF2B58A34CE0294D6A097@WILEXCSRVPD10.WEMED.com>
Created at:	Wed, Nov 23, 2022 at 11:33 AM (Delivered after 6 seconds)
From:	"Bialek, Adam" <Adam.Bialek@wilsonelser.com>
To:	Annamarie Trombetta <annamarietrombettalegal@outlook.com>, Annamarie Trombetta <atrombettaart@gmail.com>, "ajd@hoganduff.com" <ajd@hoganduff.com>, "ajd@andersonjduff.com" <ajd@andersonjduff.com>
Subject:	RE: Email
SPF:	PASS with IP 216.71.146.94 Learn more
DKIM:	'PASS' with domain wilsonelser.com Learn more
DMARC:	'PASS' Learn more

[Download Original](#)[Copy to clipboard](#)

Delivered-To: atrombettaart@gmail.com
Received: by 2002:a05:6a11:e044:b0:35c:5884:6311 with SMTP id dl4csp3749182pxc;
Wed, 23 Nov 2022 08:33:38 -0800 (PST)
X-Google-Smtp-Source: AA0mqf5n+Rhq2CQVBT6pk6449pe7/5jOU9SRMtK1NO0inwYLGX28NHPL1EJu6yKSB8n bu3+mXy/
X-Received: by 2002:a17:906:34d0:b0:78d:c16e:dfc9 with SMTP id h16-20020a17090634d000b0078dc16edfc9mr24785827ejb.327.1669221218185;
Wed, 23 Nov 2022 08:33:38 -0800 (PST)
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wRBQ==
ARC-Message-Signature: i=1; a=rsa-sha256; c=relaxed/relaxed; d=google.com; s=arc-20160816;

Original Message

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 :accept-language:in-reply-to:references:message-id:date:thread-index
 :thread-topic:subject:cc:to:from:dkim-signature;
 bh=ZUO94FbhInjliYKCs1K79ZRkbKJ2XvuwbAkW2TX55M0=;

b=0O+FAbELVHnKmaUltfA2pdKKYUkddkIRLsExWdBIS5WgEheSd+uNXFroClA4aGKb+8
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 AT/Ci5Ssd+SB3zOijuIdfDGtM2SkefHbhqSgjlssYIJqdvBhpdmcTM1MB+W+GEmrIhEq
 kglQxflw5hBXkxclwLS9c9y4j0OS2np4zWTOJiBLmMB0H5w3uN/yh5WwZhpUNb6JeOOz
 oBlhg/WioZYLl6/RoFA8jnm1JX5zDrMtBQTXlvxgnRh2y1cGJvCEDswlFn6EdlbnBDS1
 rR+w==

ARC-Authentication-Results: i=1; mx.google.com;
 dkim=pass header.i=@wilsonelser.com header.s=mailkey
 header.b=oqZVhQr+;
 spf=pass (google.com: domain of adam.bialek@wilsonelser.com
 designates 216.71.146.94 as permitted sender)
 smtp.mailfrom=Adam.Bialek@wilsonelser.com;
 dmarc=pass (p=NONE sp=NONE dis=NONE)
 header.from=wilsonelser.com
 Return-Path: <Adam.Bialek@wilsonelser.com>
 Received: from esa4.wilsonelser.iphmx.com
 (esa4.wilsonelser.iphmx.com. [216.71.146.94])
 by mx.google.com with ESMTPS id qf39-
 20020a1709077f2700b0078d9c0e8971si17348277ejc.752.2022.11.23.08.33.3
 7

for <atrombettaart@gmail.com>
 (version=TLS1_2 cipher=ECDHE-ECDSA-AES128-GCM-SHA256
 bits=128/128);

Wed, 23 Nov 2022 08:33:38 -0800 (PST)

Received-SPF: pass (google.com: domain of
 adam.bialek@wilsonelser.com designates 216.71.146.94 as permitted
 sender) client-ip=216.71.146.94;
 Authentication-Results: mx.google.com;
 dkim=pass header.i=@wilsonelser.com header.s=mailkey
 header.b=oqZVhQr+;
 spf=pass (google.com: domain of adam.bialek@wilsonelser.com
 designates 216.71.146.94 as permitted sender)
 smtp.mailfrom=Adam.Bialek@wilsonelser.com;
 dmarc=pass (p=NONE sp=NONE dis=NONE)
 header.from=wilsonelser.com

DKIM-Signature: v=1; a=rsa-sha256; c=simple/simple;
 d=wilsonelser.com; i=@wilsonelser.com; q=dns/txt;
 s=mailkey; t=1669221217; x=1700757217;
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 in-reply-to:mime-version;
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 4=;

Authentication-Results: esa4.wilsonelser.iphmx.com; dkim=none
 (message not signed) header.i=none

X-IronPort-AV: E=Sophos;i="5.96,187,1665460800";
 d="scan'208,217";a="10393528"

Received: from mail1.wilsonelser.com (HELO mymail.wilsonelser.com)
 ([64.125.236.41])
 by esa4.wilsonelser.iphmx.com with ESMTPTLS/ECDHE-RSA-AES256-
 SHA384; 23 Nov 2022 11:33:34 -0500

Received: from WILEXCSRVPD10.WEMED.com ([10.254.5.251]) by WE-
 EXCCAS-03.WEMED.com ([10.254.5.132]) with mapi id 14.03.0513.000;

Original Message

Wed, 23 Nov 2022 11:33:33 -0500
 From: "Bialek, Adam" <Adam.Bialek@wilsonelser.com>
 To: "'Annamarie Trombetta'" <annamarietrombettalegal@outlook.com>,
 "'Annamarie Trombetta'" <atrombettaart@gmail.com>,
 "'ajd@hoganduff.com'" <ajd@hoganduff.com>, "'ajd@andersonjduff.com'" <ajd@andersonjduff.com>
 CC: "Farmer, Jana S." <Jana.Farmer@wilsonelser.com>, "Haimson, Nicole" <Nicole.Haimson@wilsonelser.com>
 Subject: RE: Email
 Thread-Topic: Email
 Thread-Index: AQHYzdMEL0BVNzcYGkKMc/yBNnubQ5DyZRggAlNAQA=
 Date: Wed, 23 Nov 2022 16:33:32 +0000
 Message-ID:
 <21BC38C09AD4514693C6FCF2B58A34CE0294D6A097@WILEXCSRVPD10.WEMED.com>
 References:
 <BYAPR06MB4277A3A18295214CF5F27E60AB4F9@BYAPR06MB4277.namprd06.prod.outlook.com>
 <21BC38C09AD4514693C6FCF2B58A34CE0294D3C682@WILEXCSRVPD10.WEMED.com>
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 <21BC38C09AD4514693C6FCF2B58A34CE0294D3C682@WILEXCSRVPD10.WEMED.com>
 Accept-Language: en-US
 Content-Language: en-US
 X-MS-Has-Attach:
 X-MS-TNEF-Correlator:
 x-wsguid: IMAN-d4a4709ffd0146a6aee3300e1403962f
 imange.sendandfile.filinglocations: Active!7285068
 x-originating-ip: [10.254.5.50]
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 MIME-Version: 1.0

--_000_21BC38C09AD4514693C6FCF2B58A34CE0294D6A097WILEXCSRVPD10_
 Content-Type: text/plain; charset="us-ascii"
 Content-Transfer-Encoding: quoted-printable

Here is the Source Information from the email that I was able to capture. =
 Being sent as a courtesy.

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<html><head>
</head><body><div dir=3D"ltr"><br><div class=3D"gmail_quote">-----
--- For=
warded message -----<br>From: <b
class=3D"gmail_sendername">eBay</b> <=
span dir=3D"ltr">&lt;<a
href=3D"mailto:ebay@ebay.com">ebay@ebay.com</a>&gt;=
</span><br>Date: Sat, Dec 1, 2012 at 9:54 PM<br>Subject: Your eBay
item sol=
d! 1972 Original Oil Painting Man With Red Umbrella Signed Annamarie
Trombe=
tta yqz (330833102936)<br>To: <a
href=3D"mailto:ebay@novocin.com">ebay@novo=
cin.com</a><br><br><br><div><div id=3D"m_3729392004584666707Header">
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width=3D"100%"><tbody=
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cellpadding=
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width=
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src=3D"http://q.ebaystatic.com/aw/pics/logos/ebay_=
95x39.gif" height=3D"39" width=3D"95" alt=3D"eBay"></td><td
align=3D"left" =
valign=3D"bottom"><span style=3D"font-weight:bold;font-size:xx-
```


small;font-f=

amily:verdana,sans-serif;color:#666">eBay sent this message to

Norb &=

; Marie Novocin (estateauctionsinc).
<span

style=3D"font-size=

:xx-small;font-family:verdana,sans-serif;color:#666">Your registered

name i=

s included to show this message originated from eBay. <a

href=3D"http://pag=

es.ebay.com/help/confidence/name-userid-emails.html"

target=3D"_blank">Learn

n more</td></tr></tbody></table></td></tr></tbody>

</table></div>

></div><div id=3D"m_3729392004584666707Title"><div><table

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"100%"><tbody><tr><td width=3D"8" valign=3D"top"><img

src=3D"http://q.ebays=

tatic.com/aw/pics/globalAssets/ltCurve.gif" height=3D"8"

width=3D"8"></td><=

td valign=3D"bottom" width=3D"100%"><span style=3D"font-

weight:bold;font-si=

ze:14pt;font-family:arial,sans-serif;color:#000;margin:2px 0 2px

0">Congrat=

ulations, your item sold!</td><td width=3D"8" valign=3D"top"

align=

=3D"right"><img

src=3D"http://p.ebaystatic.com/aw/pics/globalAssets/rtCurve=

.gif" height=3D"8" width=3D"8"></td></tr><tr><td

style=3D"background-color:=

#fc0" colspan=3D"3" height=3D"4"></td></tr></tbody></table></div>

</div><div=

id=3D"m_3729392004584666707SingleItemCTA"><div><table border=3D"0"

cellpad=

ding=3D"2" cellspacing=3D"3" width=3D"100%"><tbody><tr><td><font

style=3D"f=

ont-size:10pt;font-family:arial,sans-serif;color:#000">Dear

estateauctionsi=

nc,<table border=3D"0" cellpadding=3D"0" cellspacing=3D"0"

width=3D"100%"><=

tbody><tr><td><img src=3D"http://q.ebaystatic.com/aw/pics/s.gif"

height=3D"=

10" alt=3D" "></td></tr></tbody></table>You did it! Your item sold.

Please =

ship this item to the buyer after your buyer pays. As soon as your

buyer pa=

ys, print your eBay shipping label.<table border=3D"0"

cellpadding=3D"0" ce=

llspacing=3D"0" width=3D"100%"><tbody><tr><td><img

src=3D"http://q.ebaystat=

ic.com/aw/pics/s.gif" height=3D"10" alt=3D" "></td></tr></tbody>

</table><di=

v>Complete one of the following:
<ul style=3D"list-style-

type:disc;margi=

n:10px 10 10 14px"><a

href=3D"http://rover.ebay.com/rover/0/e12011.m354=

.11337/7?

euid=3D45d0df16f2ea40759d3656f834970b06&loc=3Dhttp%3A%2F%2Fpay=

ments.ebay.com%2Fws%2FEBayISAPI.dll%3FPrintPostage%26transactionid%3

D0%26it=

emid%3D330833102936%26ssPageName%3DADME%3AL%3AEIOISSA%3AUS%3A1337"

target=3D=

"_blank">Print a shipping label Avoid a trip to the post office,

print =

and pay for your label at home. Printing shipping labels on eBay

<https://mail.google.com/mail/u/0/?ik=fd353d6ffe&view=om&permmsgid=msg-f:1750305307703913463>

EXHIBIT # 6

NOVEMBER 23, 2022

TRANSCRIPT
CONFERENCE CALL

PAGES 4 thru 21

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
TROMBETTA, : Docket #18cv993
: 1:18-cv-00993-RA-SLC
Plaintiff, :
- against - :
NOVOCIN, et al., : New York, New York
: November 23, 2022
Defendants. :
----- : REMOTE CONFERENCE

PROCEEDINGS BEFORE
THE HONORABLE SARAH L. CAVE,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: ANNAMARIE TROMBETTA, PRO SE
175 East 96th Street, Apartment 12R
New York, New York 10128
For Defendant - WILSON ELSER MOSKOWITZ EDELMAN &
WorthPoint Corporation: DICKER, LLP
BY: ADAM BIALEK, ESQ.
NICOLE HAIMSON, ESQ.
150 East 42nd Street
New York, New York 10017

Transcription Service: Carole Ludwig, *Transcription Services*
155 East Fourth Street #3C
New York, New York 10009
Phone: (212) 420-0771
Email: Transcription420@aol.com

Proceedings recorded by electronic sound recording;
Transcript produced by transcription service.

1

4

2 HONORABLE SARAH L. CAVE (THE COURT): Good
3 morning, this is Magistrate Judge Cave, we're here for
4 a conference in Trombetta versus Novocin --

5 MS. ANNAMARIE TROMBETTA (THE PLAINTIFF): Good
6 morning.

7 THE COURT: (continuing) -- case number
8 18cv993. Good morning, Ms. Trombetta?

9 THE PLAINTIFF: Yes, good morning.

10 THE COURT: All right, good morning. And for
11 defendants, let's start with the Novocin.

12 MR. ANDERSON DUFF: Your Honor, this is
13 Anderson Duff appearing on behalf of defendants Estate
14 Auctions and Norb and Marie Novocin, thank you.

15 THE COURT: Great, good morning. And for
16 WorthPoint?

17 MS. NICOLE HAIMSON: Nicole Haimson with my
18 colleague, Adam Bialek from Wilson Elser on behalf of
19 WorthPoint Corporation.

20 THE COURT: Okay, good morning, and apologies
21 for the delay, my prior conference was trying to fit a
22 lot in before the holiday so I had a lot of issues
23 with the other parties so thank you all for being
24 flexible about the time that we're getting started
25 today.

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2 Okay, so, you know, I have a few letters from
3 the parties and I've been trying very hard to sort of
4 discern what remains. I did get a couple of additional
5 letters from the parties last night and so it seems to
6 me, Ms. Trombetta, that one of the big issues that you
7 were focused on in terms of the productions from the
8 defendants was the complete sales receipt from the
9 eBay auction of the 1972 original oil painting. It
10 seemed like from Mr. Bialek's letter that that
11 complete receipt has now been provided to you, is that
12 the case, Ms. Trombetta?

13 THE PLAINTIFF: It has, I did state that in
14 the November 16th letter that you had requested of me,
15 however, I think it's important as I put in my letter
16 on Monday that the original message or the wrong
17 message, which is the coding for that email, be
18 produced and the reason for my request is that usually
19 with all eBay receipts there is an icon of a square,
20 it almost looks like an old fashioned slide, and the
21 receipts from 2012 from EAI or eBay is absent of that
22 particular icon.

23 THE COURT: Okay, so --

24 THE PLAINTIFF: So why reason for the raw data
25 or the original email, which will have the content in

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2 that receipt as well as the coding for it, and it will
3 just validate that the receipt transference was done.

4 I have --

5 THE COURT: What you have now is just like a
6 PDF version of that receipt?

7 THE PLAINTIFF: That is correct, Your Honor --
8 (interposing) --

9 THE COURT: Hold on, everybody will have a
10 chance to talk, please wait until I call on you. Go
11 ahead, Ms. Trombetta.

12 THE PLAINTIFF: Yeah, thank you. So the
13 defendants, WorthPoint, in particular, requested of me
14 several of those type of printouts. So not only did I
15 print out the PDF, you know, the content, text
16 content, but I also printed out the raw message or the
17 original message which gives you all the text within
18 the tracking and the coding of that email.

19 THE COURT: Okay, are you concerned about,
20 that the PDF is somehow not authentic?

21 THE PLAINTIFF: The production of the original
22 message will validate and verify that conclusively. I
23 am just, I just noticed that in all of my eBay
24 documents there's the icon of the gray square where
25 the image should be and it usually says, you know,

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2 click on to view image. But I did not see that in the
3 PDF. And, again, since that was asked of me and I
4 understand why, then I just would like --

5 THE COURT: There's no dispute that the eBay
6 sale took place, right, that's not disputed?

7 THE PLAINTIFF: Again, the verification of the
8 original or the raw coding and email will conclusively
9 validate that. All I can tell you with most certainty
10 is that I did not paint this image, I have produced my
11 signature --

12 THE COURT: I know.

13 THE PLAINTIFF: And I've also cooperated to an
14 extended amount. I had nothing to do with this.

15 THE COURT: I know, and that goes to the
16 merits of this case, so let me hear from --

17 MS. HAIMSON: Your Honor, may I clarify quick,
18 (indiscernible) was requested in terms of the actual
19 email. So I think plaintiff just explained to the
20 Court that counsel for WorthPoint had requested
21 printouts of emails and that she was seeking basically
22 the equivalent. That's actually inaccurate, what we
23 have requested was essentially the native electronic
24 format of that email which was exactly what we just
25 sent her. We sent her the native electronic format of

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2 that sales receipt. So she has exactly what we are
3 requesting from her and I don't know what she's
4 talking about when she's saying coding, but we have
5 given her the native electronic format of that email.
6 So I don't think there's really anything else to give.

7 THE COURT: Okay. All right, so, Ms.

8 Trombetta, do you have -- Mr. Duff?

9 MR. DUFF: Yes, Your Honor, I just wanted to
10 address this very briefly since this was our
11 production, my client's production. The email that
12 she's talking about, we originally produced in April,
13 April 26th, and it was converted into a PDF and
14 stamped. During the deposition of my clients,
15 WorthPoint's counsel correctly pointed out that there
16 were a few digits that were cut off when it was
17 converted to a PDF on the right-hand side. So while
18 the deposition was happening, I forwarded the raw
19 email, the .eml file, which contains all the metadata,
20 is unstamped, has everything that Ms. Trombetta could
21 want, that was on September 21st. So she's had it
22 since September 21st and she's continued to file these
23 letters with the Court saying that she doesn't have
24 it. And I know that everybody got the email because
25 Adam Bialek recently, as counsel just stated,

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2 recirculated that file. Ms. Trombetta's had this since
3 the raw file, since September 21st, and just to address
4 Ms. Trombetta's concerns I went ahead and reproduced
5 it, restamped it as a PDF that does not cut off an of
6 the information on the right-hand side. So Ms.
7 Trombetta's had this since April.

8 THE COURT: Okay. All right, Ms. Trombetta, do
9 you now have the emails?

10 THE PLAINTIFF: In my letter that I wrote
11 yesterday or maybe the day before, I gave and produced
12 -- no, it was yesterday, examples of what it was that
13 I was looking for. And I had also stated that in the
14 email that was sent from Adam Bialek, when I clicked
15 onto the attachment, the attachment activated my
16 mailbox on the computer, and a drop down menu came up
17 where you have to select either Gmail, Yahoo,
18 whatever. I don't have that system operating. If Mr.
19 Duff sends me the coding of the PDF I would appreciate
20 it if he'd send it to the outlook.com. I cannot open
21 what it is that he, that Mr. Bialek sent.

22 Now I have been asking repeatedly for the full
23 uncut version of the PDF on numerous occasions --

24 THE COURT: He said he sent it to you on
25 September 21st, Ms. Trombetta.

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THE PLAINTIFF: Yes, but on October 31st I sent Mr., well I put this in my letter, on the 29th I sent, which was a Saturday, I sent a sample of the April version of the PDF which was slightly truncated. Then I also sent the deposition pages 74 to 79 of my Mr. Novocin which states that he keeps all his emails. Another thing that I'm requesting is the transaction of the payment. Third, any type of receipt from the buyer which is still missing. This is just basic --

THE COURT: Okay, well it seems to me, Ms. Trombetta, that the defendants have produced to you in several different formats a copy of the receipt that you're asking for and I'm not going to require them to produce anything --

THE PLAINTIFF: Your Honor, I have to disagree. They produced in April the cut, truncated PDF, it's just the printout of the email --

THE COURT: And then he --

THE PLAINTIFF: What I'm requesting physically is the, I have received the full PDF but not the original and raw message of that particular email.

THE COURT: He just said --

THE PLAINTIFF: Secondly, there is no --

THE COURT: Ms. Trombetta, you have to listen

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2 to me. He sent it on September 21st.

3 THE PLAINTIFF: That's what they are saying
4 and I'm telling you that the email that they sent the
5 other day I could not open it. I will send it to
6 another person, I plan on doing that over the weekend,
7 to see if they can open it, but I, personally, cannot
8 open it.

9 THE COURT: Okay --

10 THE PLAINTIFF: They can actually print out
11 all the data, that entire raw message, and scan it and
12 send it to me.

13 MR. BIALEK: Your Honor, if I can, this is
14 Adam Bialek, I just want, I just want to say I sent I
15 to two different email addresses for Ms. Trombetta, I
16 sent it to the annatrombettalegal@outlook.com and then
17 I also sent it to atrombettaart@gmail.com. So it
18 would have gone to two different servers.

19 THE COURT: And that was attaching the native
20 document, correct?

21 MR. BIALEK: That attached the email that I
22 had gotten from Mr. Duff which was, it looks like a
23 January 10, 2017, mail from eBay@novocin.com to Norb
24 Novocin and Marie Novocin that it forwards the
25 December 1, 2012, at 9:54 p.m. email from eBay at

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2 eBay.com to eBay@novocin.com, and that has, that's the
3 original email that they have which has all of the
4 sales price and the buyer's name, buyer's shipping
5 address, et cetera.

6 THE PLAINTIFF: The buyer has not produced any
7 receipts of the transaction of payment, nor have they
8 indicated was it paid by check, PayPal, cash, credit
9 card, that hasn't been produced nor the sales receipt.
10 There's only one document that's been produced and,
11 again, I am asking you, Judge Cave, to have the
12 defendants print out the data and send it to me that
13 way.

14 THE COURT: What data?

15 THE PLAINTIFF: That's what I did in my --

16 THE COURT: Ms. Trombetta --

17 THE PLAINTIFF: (continuing) -- responses, I
18 printed out, I was requested to print out the February
19 20, 2016, email. I printed out the text, the actual
20 email, then I went to the raw message and print out
21 most of the coding. And then after the October 28th
22 meet and confer I figured out a way to export the raw
23 message into a PDF file and I forwarded that to both
24 defendants as requested. I'm just asking for the same
25 type of consideration as I am extending to the

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2 defendants.

3 THE COURT: Is that your exhibit 4 to your
4 letter yesterday, is that the type of raw data that
5 you're talking about?

6 THE PLAINTIFF: Correct, thank you, Your
7 Honor, that's precisely what it is that I'm looking
8 for. I printed out an example of the hard copy which
9 is basically any time you open up an email you get the
10 text or the, you know, the look of the email.

11 THE COURT: Why do you need the data for this
12 email?

13 THE PLAINTIFF: As stated earlier, first and
14 foremost there should be on the PDF an icon of the
15 image in gray where it's highlighted on blue and it
16 says click onto the image. It doesn't have that.
17 Secondly, it's as requested of me as proof this is
18 another verification that the sale took place. The
19 whole case is hinged upon the importance of the proof
20 of the sale because that's how WorthPoint became
21 involved.

22 THE COURT: All right, stop talking for a
23 minute please so I can ask the defendants a question.
24 Ms. Haimson or, well actually let me ask Mr. Duff
25 because I think this is your email --

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2 MR. DUFF: Yes, Your Honor.

3 THE COURT: Are you able to ascertain the data
4 for the email comparable to what appears in exhibit 4
5 to Ms. Trombetta's letter yesterday?

6 MR. DUFF: Your Honor, just to be frank, I
7 have no idea what she means when she says raw data. To
8 the extent she is talking about the email headers
9 which is what you can derive from the raw file which
10 she's had, again, since September 21st, I'm happy to I
11 guess convert to a PDF the email headers which she
12 could do and has been able to do since September. But
13 I'm happy to do that and circulate it. I just want to
14 quickly address the --

15 THE COURT: I think it's something different,
16 Mr. Duff, to be candid, I think -- I think what she's
17 talking about is the metadata for the email and I
18 realize that as a layperson, and I don't know the
19 first thing about this either, but do you have someone
20 in your office who could extract the metadata for the
21 email and then produce it basically like in a PDF?

22 MR. DUFF: Your Honor, I'm not, I guess I'm
23 not sure what that, what that means, but to the extent
24 that I can I'm happy to do that. I mean we sent her
25 the raw file that contains all of that --

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THE COURT: I know.

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MR. DUFF: So if she knows how to do it, she should be able to do it.

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THE COURT: She's not able to open the raw email --

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MR. DUFF: Well, Your Honor --

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THE COURT: Go ahead.

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MR. DUFF: I'm sorry, Your Honor, go ahead.

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THE COURT: It's all right, go ahead.

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MR. DUFF: Well with respect, she did say that when she tried to open the raw file the mail program started opening, well that's how you open the file, that indicates that she can open the file because it is a mail app file. So if the mail app started opening she can open the file. But because, just that she doesn't know how to do it doesn't mean she can't.

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THE COURT: Right.

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MR. DUFF: But to the extent that she will, if she can explain to me the steps I need to take to turn a PDF, give her a PDF that will resolve this issue for her, I'm happy to do that, even --

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THE COURT: What I'd like you to do, so, obviously there is going to be, all I'm, the reason to make a big deal about this is this is obviously a

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2 seminal document in this case and the authenticity of
3 the sales receipt is going to be something that, you
4 know, maybe you're going to be able to agree, but
5 maybe not. And so the authenticity of the document is
6 important.

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MR. DUFF: Sure.

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THE COURT: And what I'm interpreting Ms.
9 Trombetta to be saying is she wants to confirm that
10 the PDF and the raw email that was sent to her are, in
11 fact, the actual authentic documents. And so if you
12 look at exhibit 4 to her letter yesterday, which is
13 ECF number 317, it's a bunch of garbled characters
14 that make no sense to me but I am sure to an IT person
15 they'll say, yes, this is the metadata for an email.
16 And so --

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MR. DUFF: Your Honor, this is the -- and I'm
18 sorry. I'm sorry, go ahead, I did not mean to
19 interrupt.

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THE COURT: Sorry, what I'm just trying to get
21 at is that for the raw email that you provided to her,
22 to extract the metadata for that email and produce
23 that to her as a, like a PDF similar to exhibit 4 to
24 her letter --

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MR. DUFF: Yes. So, Your Honor, I'm looking

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2 at exhibit 4 right now, that is -- that is the email
3 headers, that's what I was talking about earlier.

4 THE COURT: Okay.

5 MR. DUFF: So that I know how to produce, I'm
6 happy to do that, I can do that from the
7 (indiscernible) EML file that we've already given her,
8 I can do that immediately after this conference and I
9 will do that and then hopefully we can put that to
10 bed.

11 I would like to address one more point that
12 Ms. Trombetta (indiscernible), plaintiff said that we
13 have not produced documents, the sales receipts that
14 the buyer has. Well why would, we don't have
15 documents that the buyer has and we can't produce
16 things, we told her many, many times that we cannot
17 produce documents that either do not exist or that are
18 not within our possession, custody or control, those
19 documents are not within our possession, custody and
20 control, and we would have been able to explain that
21 to her, at least try to explain that, had Ms.
22 Trombetta met and conferred with us which she has
23 consistently refused to do. In fact, last Thursday
24 WorthPoint's counsel asked Ms. Trombetta if she would
25 meet and confer with us on Monday of this week to try

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2 to resolve some of these issues so that we wouldn't be
3 wasting so much of the Court's time. Well, Ms.
4 Trombetta responded and said that she couldn't
5 possibly meet any time on Monday but then Monday
6 morning she filed a two page, single spaced letter
7 with the Court, so obviously she had time, she just
8 wasn't willing to meet and confer. And that's just the
9 most recent and one example, one tiny example of the
10 continued bad faith with which Ms. Trombetta is
11 proceeding in this case. And that's all I have to say
12 about that, but I'll happy produce a PDF of the email
13 header for this crucial email. Thank you.

14 THE COURT: Thank you, okay.

15 MR. BIALEK: Your Honor, if I may --

16 THE COURT: Let me just say I read all of your
17 letters. I understand that there is a depth of
18 loathing between the parties here that is almost
19 immeasurable, and I understand that the parties are
20 equally frustrated with where we are in the case. All
21 I care about is getting you to the end of discovery.
22 I'm not, I don't care about who shot John, I don't
23 care about who behaved worse, if and when there is an
24 appropriate time for the defendants' attorneys to be
25 seeking sanctions or (indiscernible), we will address

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2 that. In the meantime, it's not necessary and it is a
3 waste of my time for the parties to be belying each
4 other in writing and letters to me and during
5 conferences with the Court. Today we are talking
6 about what, if there are any remaining categories of
7 documents that either party thinks the other party has
8 and needs to be produced, that's what we're talking
9 about today.

10 So, Ms. --

11 MR. DUFF: My apologies, Your Honor, thank
12 you.

13 THE COURT: It's not necessary to apologize, I
14 just needed to level set the conversation.

15 MR. BIALEK: Your Honor, may I --

16 THE COURT: Go ahead.

17 MR. BIALEK: Sorry. I just wanted to say that
18 I just am sending over to everybody the header
19 information or the source information that was pulled
20 from the email. But to avoid having to come back for
21 another conference, I just want to point out the email
22 that Mr. Duff had sent to us was actually forwarding
23 the original email. So the email that he sent was from
24 2017 and it came from the Novocin's eBay@novocin.com,
25 they had kind of forwarded the email that

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2 eBay@eBay.com had sent to them.

3 So while I just forwarded the source
4 information that she's looking, that Ms. Trombetta is
5 looking for, it's not going to have the source
6 information from that December 1, 2012, email, it
7 would only have it from 2017. So I just want to make
8 sure that everybody is aware of that so we don't have
9 to have another fight over it.

10 THE COURT: Okay. All right, thank you for
11 that clarification. All right, so one way or another,
12 Ms. Trombetta, whether it's from Mr. Bialek
13 momentarily, or from Mr. Duff after this call, you are
14 going to get the information about the eBay sales
15 receipt email that we were just discussing.

16 THE PLAINTIFF: Okay, Your Honor, if I may
17 just say three things. First and foremost, my letter
18 on Monday was filed on Friday evening. Any letters
19 that I wrote that were filed yesterday were written
20 over the weekend. I did, as stated, had appointments,
21 it's a holiday week, I had a lot of things to do.

22 That said, I will go to my Gmail account and
23 if you go, if the email was sent from Gmail you go to
24 the arrow, there's a circle with three dots and it
25 says reply, forward, filter message, you click on show

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2 original and when you click on that what you get is
3 message ID created at, which gives you the date,
4 from/to/subject. Underneath that you get the text of
5 the email and all the coding that goes with it
6 depending on how long the email is.

7 If it's a Yahoo account, then you go to the
8 email, you go to more, you drop down the window and it
9 says raw message. Now when WorthPoint asked me for the
10 metadata, I didn't know how to produce it. But then I
11 went to file, drop down window export PDF, and lo' and
12 behold, it did it, it brought it to my desktop. This
13 is what I put in my filing yesterday. Again, it's a
14 printout of the original email which is what I have
15 from Estate Auctions Inc. in full.

16 Again, in the spring of April it was
17 truncated, on September 21st it was brought to the
18 Novocins' attention, if Mr. Duff did, in fact, include
19 the original or the raw message, it depends on the
20 email platform. Each email platform, Gmail, Outlook,
21 they all have a different system but they all are
22 consistent with being able to reveal and either print
23 out or export to a desktop the original message with
24 the coding and the text of the message. Thank you.

25 THE COURT: Okay. Are there any other

United States District Court
Southern District of New York

Case No. 18-cv-0993-RA-HBP

Annamarie Trombetta

Plaintiff
vs.

Norb Novocin, Marie Novocin
and Estate Auctions Inc.
and

William Seippel & WorthPoint Corporation
5 Concourse Parkway NE, Suite 2850
Atlanta, Georgia 30328

Defendants

PLAINTIFF’S MOTION FOR LEAVE TO FILE

A PROPOSED AMENDED COMPLAINT FOR

FRAUD, EMOTIONAL DISTRESS, TORT AND

PERMANENT INJUNCTIVE RELIEF AGAINST

EAI AND NORB AND MARIE NOVICIN AND

WORTH POINT CORPORATION DUE TO THE

WILLFUL CONCEALMENT AND FALSIFICATION

OF FACTS AND FALSE ADVERTISING

**TO FILE A PROPOSED AMENDED COMPLAINT TO INCLUDE
FRAUD, FALSE ADVERTISING EMOTIONAL DISTRESS AND A
REQUEST FOR DECLARATORY, PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF**

**SECOND DEFENDANTS ONLY : WORTHPOINT CORPORATION
PROPOSED AMENDED COMPLAINT**

Pursuant to Rule 15, Rule 15 (a) (2), Rule 15 (c) (1) (a), Rule 15 (d) and Rule 26.01 of the Federal Rules of Civil Procedure and this Court, Plaintiff hereby respectfully submits this Memorandum in Support of Plaintiff’s Motion for Leave to File a Proposed Amended Complaint to add Fed. Rule of Civil Procedure Fraud 9 (b) and for the Plaintiff’s Request for Permanent Injunction and Other Equitable Relief (“Amended Complaint”). Rule 15(c)(1) indicates that an amendment to a complaint will relate back to the date of the original pleading if certain conditions are satisfied. First, the law that provides the applicable statute of limitations must allow the relation back. Fed. R. Civ. P. 15(c)(1)(A).

INTRODUCTION

Based on past events, new additional facts and information on behalf of both Defendants’ own filings, and discovery responses, which exhibit “bad faith,” to the extent of fraud, Plaintiff

seek's Leave to File a Proposed Amended Complaint against EAI and Norb and Marie Novocin and WorthPoint Corporation. Plaintiff's claim for Fraud, also substantiates Plaintiff's initial Request for Declaratory Relief, as I am not the artist who created or signed the 1972 oil painting, and to add Permanent Injunction Relief to Plaintiff's Proposed Amended Complaint. Plaintiff's Leave to Amend is in tandem with Judge Cave's most recent Order in Doc. 308. The language of Rule 15 (a)(2) states the amendment should be freely allowed "when justice so requires." My complaint intends to illustrate fraudulent conduct within my filing. Further, Rule 26.01 states that an amendment may be allowed "at any stage of an action and may permit parties to seek to amend their pleadings just before trial. Also, Rule 26 .01 gives the court's permission if the amendments are substantive— and support laws that creates or defines rights, duties, obligations, and causes of action that can be enforced by law. Additionally "under New York law" a claim for Intentional Infliction of Emotional Distress (IIED) requires a showing of: '(i) extreme and outrageous conduct; (ii) intent to cause, or disregard of a substantial probability of causing, severe emotional distress; (iii) a causal connection between the conduct and injury; and (iv) severe emotional distress.'" Rich v. Fox News Network, LLC, 939 F.3d 112 (2d Cir. 2019) (quoting Howell v. N.Y. Post Co., Inc., 596 N.Y.S.2d 350, 353 (N.Y. 1993)). As the Second Circuit has explained: Under New York law, although the standard of outrageous conduct is strict, rigorous and difficult to satisfy, that is not the case when there is a deliberate and malicious campaign of harassment or intimidation. Granting the Proposed Amendment Complaint would not be futile because the SAC, just like the First Amended Complaint ("FAC"), contains detailed factual allegations supporting each of Plaintiff's claims. Each claim has a correlating exhibit of evidence in support to verify the Plaintiff's claim.

Plaintiff's Proposed Amended Complaint harkens back to WorthPoint's written fraudulent statements, willful concealment, misinformation, captured in phone recordings and in writing. In 2015 and 2016, Plaintiff endured months of falsehoods and lies told by the WorthPoint's employees who concealed that WorthPoint's website was the source of the fraudulent link associated with Plaintiff's name and was responsible for it's removal of the false 1972 attribution of the oil painting that was advertised on WorthPoint's website. The more time elapsed the more

WorthPoint added more of it's unrelated pages to Plaintiff's name and credentials. Any website designer or webmaster can attest that adding or removing links on and off a website can be done **instantaneously**, however the owner of any website maintains the control of it's content.

The facts regarding website ownership, the concealment of evidence, the lack of evidence and overt fraudulent excuses confirm fraudulent misrepresentations by WorthPoint Corp. to the Plaintiff, spans over seven and half years. One of the main elements of fraud is that there is no basis for believing that the information is factual. Despite Plaintiff's production of my 1972 signature in print and script, and the production of over seven hundred pages of evidence, the Defendants are unyielding and rejected settlement talks on Nov. 23, 2022. Concurrently and ironically, WorthPoint's Defendants, on August 30, 2022 improperly and willfully served Plaintiff an unsigned summons and a complaint with false incorrect facts and dates, generated from the state of Georgia, after I had a nine hour deposition. WorthPoint's owners are claiming that they are suffering from IIED, Plaintiff has always affirmed, I am not the artist who painted the 1972 oil painting and therefore could not have a licensing with WorthPoint Corp. Aside from this Plaintiff has never been to Georgia. Plaintiff has been falsely and repeatedly interrogated while constantly producing irrefutable proof. I am being bombarded with timed legal responsibilities, compounded by an addition countersuit, in a State I never entered, two years after I served WorthPoint, all endured because I was FORCED to protect my name, brand and to prevent further illegal and unethical usage of my name. For these defined reasons within my submission, I seek warranted and justified claims for IIED. The repeated complicated problems and delays Plaintiff endured all this due to a simple request to remove a false internet post satisfies the elements of IIED. In 2015, what I had hoped to be an honest or simple mistake, has revealed to a willful attempt to conceal a fraudulent signature along with circulating false copyright management information on the internet. The difficulties I endured to remove the false post reveal a willful pattern to abscond Plaintiff's identity and falsely associate the 1972 oil painting with my name possibly to increase the value of a damaged oil painting and piggyback off my name. Concurrently, and from 2015, I am being falsely associated to Estate Auctions Inc, WorthPoint Corporation, and eBay,

which are all known for selling low quality items. I have the burden of litigation, the burden of proving my claims, all due to a signed counterfeit painting that in 2017 I informed Norb Novocin that I did not paint or sign this oil. WorthPoint never issued a statement of error nor an apology, thus this constitutes willful fraud.

Granting the Proposed Amendment Complaint would not be futile because the Second Amended Complaint (“SAC”), just like the First Amended Complaint (“FAC”), contains detailed factual allegations supporting each of Plaintiff’s claims. Each claim has a correlating exhibit of evidence in support to verify the Plaintiff’s claim. There will be no futility resulting in examining the Plaintiffs’ new claims, as these claims arise from the Defendants’ willful intent to misrepresent Plaintiff’s integrity and to willfully intend to misrepresent, to the Plaintiff, evidence, conduct and practices that Defendants have admittedly engaged. Based on the simple, plain reading of the evidence, all will assist in facilitating Plaintiff’s claims confirmed by truthful facts substantiated in and by evidence produced to the Defendants and by the Defendants.

JURISDICTION AND VENUE

The Court has subject matter jurisdiction pursuant to Rule 15 of the Federal Rules of Civil Procedure. FRCV Rule 15 provides that “a party may amend its pleading [with] the court’s leave” and that “[t]he court should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2). This Court has supplemental jurisdiction over the New York State law claims pursuant to 28 U.S.C. § 1367.

Legal Standards of F.R.C.R Fraud 9 (b) To Amend Plaintiff’s Complaint

Plaintiff’s moves the Court to include fraud against each Defendant due to the constant, willful, conscious misbehavior with the knowledge that Defendants have purported false and misleading information to the Plaintiff, about the Plaintiff and in reference to the “1972 Original Oil Painting Ad Man With Red Umbrella”, to the general public at large and at present, to the Court in the public filings of this case. All the Defendants, EAI and WorthPoint Corp. demonstrated by

concealment of evidence and by submitted false evidence that all parties exemplify an intent “to manipulate, deceive and/or defraud.” the Plaintiff and the Court. The Southern District Court of New York, also known as the Second Circuit has held that Rule 9(b) requires fraud complaints to allege facts that lead to a “strong inference” that the defendant has the requisite state of mind.

Plaintiff’s Motion for Leave for my Proposed Amended Complaint harkens back to the Court’s Scierter, notation by Judge Abrams in her Order and Decision filed in Doc, 187 on 12/21/21 on page 19 of 26. Judge Abrams wrote ~ “ *Trombetta also states that the use of her biography was unauthorized and that she contacted WorthPoint to inform the company of the “false posting” Id at 6. In other words, her biography was not “licensed by WorthPoint” as the webpage claimed. At this stage Trombetta’s allegations with respect to the falsity of the CIM are sufficient to state a claim. They are sufficient to allege scierter as well.*” Prior to Judge Abrams December 21, 2021 conclusion, Judge Caves’ March 19, 2020 Order and Decision, Doc. 40 on page 10 of 14 stated “ *With respect to the scierter element of both the § 1202(a) and § 1202(b) claims, the “Second Circuit has stated that courts should be lenient in allowing scierter issues to survive motions to dismiss.” Aaberg, 2018 WL 15803037, at *9 (citing In re DDAVP Direct Purchaser Antitrust Litig., 585 F.3d 677, 693 (2d Cir. 2009))*” . ~ *Ms. Trombetta alleges that she contacted Mr. Novocin, Worthpoint.com employees, and Mr. Seippel on more than one occasion to complain about the misinformation in the internet posts about the Painting and request their removal. She alleges that, as to EAI, Mr. Novocin deliberately disregarded her requests and told her, “Go For It and Hire an Attorney,” and as to Worthpoint.com, Mr. Seippel instructed that the posts be removed, but they were later reposted.*” The degree of the scierter element is typically and presumably determined throughout the Discovery process. Scierter can be proven by the presentation of evidence to show the perpetrator's state of mind, one of the key elements in F.R.C.P 9 (b) and must be plead with particularity. The evidence must typically show that the perpetrator acted knowingly, willfully, intentionally or in reckless disregard of the law. Plaintiff has detailed statements and facts below.

Pleading Rule 9(b) of the Federal Rules of Civil Procedure permits allegations of malice, intent, knowledge, and other conditions of the mind to be alleged “generally”. To plead such

allegations sufficiently, one must offer sufficient facts to render the condition-of-the-mind allegation plausible. “In order to properly plead fraud with particularity, the complaint must allege the time, and content of the fraudulent representation such that a defendant can prepare an adequate response to the allegations.” The Second Circuit standard goes beyond general statements when alleging intent. Plaintiff will meet this standard by “(1) alleging facts to show that Defendants had both motive and opportunity to commit fraud, or by (2) alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness.

” *PetEdge, Inc. v. Garg*, 564088, at *9 (S.D.N.Y. Feb. 10, 2017).

The elements of fraud are as follows:

- 1 -A lie or falsehood is made.
- 2- By the defendant with scienter, and the statement is false, or that there is no basis for believing that the information is factual.
- 3- The defendant intends to cause the plaintiff to do or not do some particular act based upon their falsehood or lie.
- 4- The plaintiff is justified in relying on the falsehoods or lies told by the defendant.
- 5- Harm results from the plaintiff’s reliance on the defendant’s statements Causation loss is “the causal link between the alleged misconduct and the economic harm ultimately suffered by the plaintiff.

STATEMENT OF FACTS AND RELEVANT PROCEDURAL HISTORY

Please see attached Proposed Second Amended Complaint Court Application for the full Statement of facts that correlate to Second Defendant WorthPoint Corporation.

Statutes of Limitation for Fraud in New York ~ Six Years GENERAL or Two Years From the Time of the Confirmed Fraud.

Under New York law, an action based upon fraud must be commenced within six years of the date the cause of action accrued, or within two years of the time, the Plaintiff discovered or could have discovered the fraud with reasonable diligence, whichever is greater. The cause of action accrues when “every element of the claim, including injury, can truthfully be alleged” “even though the injured party may be ignorant of the existence of the wrong or injury. Mere suspicion will not constitute a sufficient substitute” for knowledge of the fraud. Thus, while it is true that New York

courts will not grant a motion to dismiss a fraud claim where the plaintiff's knowledge is disputed, courts will dismiss a fraud claim when the alleged facts establish that a duty of inquiry existed and that an inquiry was not pursued.

Plaintiff will detail below the unending misrepresentation by WorthPoint Corp and eBay spanning a period from August 2015 through to 2017. Plaintiff did not conclusively confirm in Dec/Jan 2015 and 2016) that the eBay sale occurred. The eBay rep deemed it "Undefined" This duly recording in **Plaintiff's eBay. m4a Evidence 000328 (phone recording)**. In 2017, Plaintiff could not understand why the internet link that was supposed to be permanently removed by WorthPoint, was under my name, again. On Jan. 4, 2017 I sent an email to WorthPoint Corp and did not receive any response. I then reached out to EAI to try find out if EAI uploaded the 1972 eBay sale and posted it on the internet. On Jan. 10, 2017, Plaintiff called (302) 628- 9120, the telephone number associated with EAI. I spoke with Marie Novocin to find out if they were the sellers of the painting and if they had any information as to why their 2012 eBay sale was on the internet. coming up under my name. I also asked if they knew who had the painting. Shortly after, my phone call to Marie Novocin, Defendant, Norb Novocin phoned Plaintiff at my home number on Jan. 10, 2017 at 7:10 **Plaintiff's Norb Novocin m4a Evidence 000330 (phone recording)**. This phone call affirms Plaintiff's questions and Mr. Novocin's affirmative responses that he was indeed the seller of the painting. Mr. Novocin said he phoned me to tell me "*he has a wealth of no knowledge*" pertaining to the computer data. etc. Plaintiff documented with the Court Mr. Novocin quote to "Go For It and Hire an Attorney" professing that we did nothing wrong. Months later exhibited in **EAI 000001 to Evidence EAI 000003** is Plaintiff's attorneys' letter dated August 28, 2017 sent to Mr. & Mrs. Norbert and Marie Novocin Estate Auctions Inc. Upon a lack

of response from EAI Defendants Plaintiff filed this lawsuit within months of EAI ignoring the letter sent by my attorney on Feb. 5, 2018 I filed a lawsuit against EAI and Norb and Marie Novocin.

in addition to Norb Novocin, Marie Novocin and Estate Auction Inc. and attorney Anderson Duff clearly pointed out and wrote in an e-mail dated March 1, 2019 “ *We now understand that at least one third-party internet site scraped information about the December 1, 2012 eBay sale that contained the mis-attribution naming Ms. Trombetta and reposted the same on its website at least twice. Because Estate Auctions has no control over this third party, Ms. Trombetta had difficulty removing this information from the website.*” A settlement conference in the spring of 2019 before Judge Abrams was unsuccessful with an offer of one hundred dollars, Upon Judge Abrams ruling, Plaintiff was permitted to Amend my initial complaint to include WorthPoint Corporation. In April 2022, EAI produced evidence in EAI000011 thru to EAI00019 which was a signature in red pencil which has a different spelling than the Plaintiff. Additionally Plaintiff produced my signature and print on or around the year 1972. In reviewing the initial Discovery responses from both Defendants Plaintiff Motion to file to include Fraud on May 18, 2022 Plaintiff filed a Motion to Amend my Complaint to Include Fraud and request Permanent Injunctive Relief in Doc.224. Judge Cave’s Order denied without prejudice Plaintiff’s Motion.

PLAINTIFF’S PROPOSED AMENDED COMPLAINT TO INCLUDE FRAUD BY WORTHPOINT CORP.

The Plaintiff inclination to include Fraud 9 (b) harkens back to Document 29 filed on December 3, 2019 Plaintiff brings to the Court’s attention Page 2 and 3 of 16, in Plaintiff’s December 3, 2019 filing. **EXHIBIT #1** Doc. 29 page2 and **EXHIBIT # 2** and **EXHIBIT #3** Doc. 33 filed on January 17, 2020 Page 14 - Relief #4 Identity Theft on a Public Platform. The Identity Theft and The Assumption Deterrence Act as each separate law or claim applies to one or both Defendants and is within the statues of limitations. The Photo of the signature “A. Trombetta”

that is not of the hand of the Plaintiff, had “copyrighted work licensed by worthpoint.com. It is a fact that the Plaintiff never signs in oil just the first letter of Plaintiff’s first name. This constitutes “Identity Theft” -**Definition:**

Iden-ti-ty theft noun: **identity theft**; plural noun: **identity thefts**

1. the fraudulent acquisition and use of a person's private identifying information, usually for financial gain.
2. **Identity theft** and **identity fraud** are terms used to refer to all **types of crime** in which someone wrongfully obtains and uses another person's personal data in some way that involves **fraud** or deception, typically for economic gain.

1. 18 U.S. Code §1028. Fraud and related activity in connection with identification documents, authentication features, and information (a) Whoever, in a circumstance described in subsection (c) of this section 1) knowingly and without lawful authority [produces](#) an [identification document](#), or a [false identification document](#); (2) knowingly [transfers](#) an [identification document](#), [authentication feature](#), or a [false identification document](#) knowing that such document or feature was stolen or produced without lawful authority;

2. Under the Identity Theft and Assumption Deterrence Act, it is a federal crime when a person "knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law.”

Plaintiffs seeks a Motion for Leave to Propose Plaintiff’s Amended Complaint, to streamline this action when the Plaintiff pleads factual content that allows the court to draw the reasonable inference that all the Defendants are liable for the consistent and willful fraudulent misconduct alleged in this filing. Granting Plaintiff’s Motion to Amend Plaintiff’s Complaint, allows the Plaintiff to submit new evidence verifying the fraudulent offenses described below, while demonstrating the justification for the Plaintiff’s need to warrant legal action against

both Defendants. All Defendants, prior to litigation have willfully contributed to displaying and purporting on the internet, absurd (4 ft painting at age 9), facts altering information adversely affecting Plaintiff's income producing ability and reputation. and creating falsities to include 1) a photo of false signature misattributed to Plaintiff 2) misrepresentation of my biographical history 3) visual circulation on the internet of false copyright and licensing claims by WorthPoint Corp. 4) false, misleading claims and association of the Plaintiff's name and biography with EAI, eBay and WorthPoint Corporation and 5) a damaged 1972 painting too large to paint at age nine. The seven Counts of Fraud described below begin chronologically and end in the order of importance.

1) FRAUD ~ COUNT I ~ FIRST FALSE WRITTEN MISREPRESENTATION

The germination of this legal action against WorthPoint Corp. began in August 2015. At that time due to contradictory, willful denial from WorthPoint Corp, Plaintiff was consistently and verbally instructed to contact eBay, to find the buyer or seller in order for eBay, not WorthPoint Corp., to remove of the fake 1972 oil painting ad from the internet. Countless calls to WorthPoint's employee Ms. Brooks ended in her claim that WorthPoint does not have the seller information. Her direction was to "*contact eBay*" at all times. In a state of reliance, Plaintiff requested WorthPoint's employee, Ms. Brooks to state in writing that removal of the 1972 misattribution oil painting was eBay's responsibility. Ms. Anita Brooks produced a written affirmation on Nov. 16, 2015 which is a true misrepresentation-BELOW. The surviving excerpt by Ms. Brooks below was extracted and emailed to eBay on Thu, Nov 26, 2015 at 10:07 AM. Ms. Brooks repeatedly stated in every phone call to pursue eBay. Ms. Brooks stated that eBay had the user and seller information for the 1972 link on eBay's website. eBay claimed the active link to eBay website on WorthPoint's website featuring the false 1972 oil painting ad with a signature A. Trombetta, was only on WorthPoint's website. Plaintiff ask the Court to note, since August 2015, when Plaintiff phoned eBay, I suggested to eBay looking up Estate Auctions Inc. 2012 eBay sales records, however eBay claimed they did not have old sales records from 2012.

NOV 16, 2015 | 08:35AM EST
Anita B. replied:

Hello,

We do not buy or sell anything on the site. Rather, **we buy sales records** from various auction houses and sites and compile them into a price guide to **help users determine the value** of antiques and collectibles.

If this particular item sold on EBay. I recommend trying to contact EBay, as they may be able to provide you with the additional information you are seeking.

Kind Regards,

The WorthPoint Team

www.WorthPoint.com

(877) 481-5750

Regards,

Customer Support Team

WorthPoint, Inc

When Plaintiff contacted eBay's reps, all saw when the eBay logo on WorthPoint's website was clicked, eBay's website appeared due to the link. All my efforts focused on removing the false 1972 Oil Painting post, listed publicly on the internet. Plaintiff's email to eBay with WorthPoint's statement has been produced to both Defendants in Discovery in Plaintiff's Evidence 000016. The statement by Ms. Brooks below is a prime example of an element to claim fraud in **#1 -A lie or falsehood is made . and in the fraud element #2 The defendant intends to cause the plaintiff to do or not do some particular act based upon their falsehood or lie.** From Nov. 2016 to Jan. 2016 Plaintiff kept contacting eBay by phone after sending an email in Nov., 2016. to remove the false post. eBay claimed the post was a spoof or a fake listing yet also confirmed they could not remove it. Plaintiff lost a great deal of time. From November 2015 into January 2016, Plaintiff saw more of WorthPoint webpage listings linked to the 1972 oil painting such as Titanic Lithograph and Thomas Kincade were appearing as separate links on the internet. listed under Plaintiff's name and profession. This is in **Plaintiff's Evidence 000046** and has been produce to both Defendants. The new posts were WorthPoint's website. As a consequence of Ms. Brooks false information, Plaintiff called eBay numerous times. At one point Plaintiff recorded a 40 minute phone conversation with four separate eBay employees, All eBay reps went to WorthPoint's website to see the 1972 oil painting Man With Red Umbrella signed Annamarie Trombetta webpage and clicked onto the eBay icon which brought them to eBay's website. An Ebay's senior rep affirmed to me the 1972 oil painting eBay 2012 sale was **UNDEFINED. In short the 2012 sale was not in eBay record in 2015.** The same senior eBay

rep affirmed eBay did not have the 1972 oil listing on eBay's website, it was on WorthPoint website and that eBay does not have the right to remove the 1972 webpage from WorthPoint's website. My intent to record the eBay phone call was to have proof for WorthPoint that the 1972 oil painting link was indeed on WorthPoint's website. The documented eBay phone recording, was produced by Plaintiff to all Defendants in April 2022 and bated stamped **Plaintiff evidence 000328**.

Following eBay's direction, in Jan. 2016, Plaintiff called WorthPoint and left messages. On Jan. 22, 2016 Plaintiff spoke with Anita Brooks, sent emails to WorthPoint on the same day and WorthPoint did not respond. Plaintiff left more phone messages. Two weeks later on Feb. 1, 2016 I called again. I spoke with Ms. Brooks on the same subject and referenced the fact that I did not paint the 1972 oil painting advertised on WorthPoint's website under my name on the internet. recorded in **Plaintiff evidence 000331**. I reference my call to her on Jan. 22, 2016 and informed her that no one from WorthPoint contacted me. Defendants and the WorthPoint staff knew of the false posting by my verbal and written communication. Their non response and conditions of the mind then, supports my present claim of fraud and contributes to the "condition of mind" allege the time, and content of the fraudulent representation. In Discovery, Plaintiff produced one recording with the two call to Anita Brooks on Jan. 22, 2016 and on Feb. 1, 2016 (two weeks later) to Defendants bated stamped by WorthPoint as **Plaintiff evidence 000331**. Plaintiff also produced the Jan. 22, 2016 emails I was instructed to send to WorthPoint by Ms. Brooks ' direction. In Discovery, I produced the Jan. 22nd emails in as Plaintiff's Evidence #000022 / Plaintiff's Evidence #000023.

I also produce it in Plaintiff's Deposition response 000351, 000352, 000362 and 000363 . From August 2015 to 2017, WorthPoint Corp. and their employee made many false verbal and the false written representation. This existing material facts is susceptible of being known to be false and misleading. This caused Plaintiff to lose time, diverted from my professional and personal life, to pursue eBay in order to remove the false 1972 that was coming up under my name. Defendants , WorthPoint Corp. and their employees did so either knowing the representation was false, or without knowing or caring if it was true or false. The email excerpt by Ms. Brooks in Nov. 2015 and her actions in Jan. 2016 is an example of defendants intent to cause the plaintiff to do or not

do some particular act based upon their falsehood or lie.” by pursuing eBay. Duly document in the Jan,22 and Feb. 1 2016 is Ms. Brooks affirmation that eBay was WorthPoint’s information source for the 1972 oil painting. /Defendant intended to induce the plaintiff to act in reliance on that representation. As a consequence, from August 2015 to Feb. 2016 Plaintiff went around in circles trying to discern the source and which website was responsible for the 1972 internet posting. More important, which party do I request a permanent removal for this fake information, publicly listed under my name. As a consequence of the extended amount of time Plaintiff’s lost to remove the false 1972 internet posting, Plaintiff suffered a causal lost a sale of artwork valued at \$8500 to a prominent art collector. Plaintiff inability to remove the false posting determined the buyer’s decision not to complete the purchase.

2) FRAUD ~ COUNT II ~ SECOND FALSE WRITTEN MISREPRESENTATION

On Feb. 20, 2016 in a dated email response by Mr. Seippel to Plaintiff’s first email, I encountered his ambiguous, contradictory statements such as “ *We unfortunately do not take the data from eBay you are asking for. I do not think that data actually exists anywhere at this point as we are the only persons that have saved this to my knowledge.* Conversely and duly documented in Ms.Anita Brooks written statement above and also in phone on January 22, 2016 is her statement that eBay is WorthPoint source to of information. On Feb. 2, 2016, Mr. Watkins stated that the source of WorthPoint’s information (and the 1972 oil painting) was from Terapeak. Mr. Seippel’s Feb. 20, 2016 response email to Plaintiff states his company did “*NOT take the the data from eBay* “. On Feb. 20, 2016 Mr. Seippel never stated the source that gave his company the “1972 oil painting allegedly sold on eBay on Dec. 1, 2012 by EAI. The lack of confirmation or named source led to future problems for the Plaintiff. Mr. Seippel’s Feb. 20, 2016 response email is a prime element of fraud in concert with his June 29, 2022 Declaration. This is Mr. Seippel’s company Element # 3- *The defendant intended to cause the plaintiff to do or not do some particular act based upon their falsehood or lie.* That act was to confuse or conceal the source of posted oil painting information Fraude Element #4- *The plaintiff is justified in relying on the falsehoods or lies told by the defendant.* Since Plaintiff did not create this painting nor have I ever done business with

WorthPoint, I was reliant on WorthPoint it's information they purported to permanently remove the false link from the internet. In Feb, 2016 Plaintiff, due to Mr. Seippel's written affirmation I did not contact EAI to validate if a painting existed or if the eBay sale in 2012 occurred. As aforementioned the eBay senior rep informed Plaintiff that the sale of the 1972 oil painting was "UNDEFINED". At that time my only care was to get the fake post off the internet. Defendants produced Mr. Seippel's Feb. 20, 2016 email response to Plaintiff RE 1972 Oil in WP00062 and Evidence. WP00096. Plaintiff produced Seppel's Feb. 20, 2016 email in Plaintiff's Evidence #000034 and Plaintiff's Evidence #000039 and #040. The harm and causal loss to Plaintiff and that I suffered was due to Mr. Seippel's misrepresentation. I was left state of unanswered questions and a great loss of time taken away from earning a living and pursuing my artistic endeavors.

3) FRAUD ~ COUNT III ~ THIRD FALSE WRITTEN MISREPRESENTATION

Filed on June 29, 2020 in Doc. 61-1 is Mr. Seippel's Declaration, signed on June 24, 2020, Plaintiff produced this in Discovery, bated stamped as Plaintiff's Evidence #000214, #000215, #000216. - Written in Seippel's 6/24/20 Declaration. Mr. Seippel declared in his filed Declaration in Doc. 61-1. He alleges in **No. 5**. *"In or around January 2016, I became aware that Plaintiff Annamarie Trombetta contacted WorthPoint regarding an auction listing to the Worthopedia that the alleged infringed her copyrights (hereinafter, the "Allegedly Infringing Auction Listing"). And. on or around February 4, 2016, I caused the Allegedly Infringing Auction Listing, which was displayed at <http://www.worthpoint.com/worthopedia/1972-original-oil-painting-man-red-4892417>, to be permanently deleted from WorthPoint's website. Once delete, the Allegedly Infringing Auction Listing was never reposted to Worthopedia."* Mr. Seippel failed to realize the Plaintiff's Feb. 20, 2016 email had three attachments. Plaintiff's three attachment are seen in WorthPoint's evidence

WP000074. The Google print out attachment is dated Feb. 17, 2016. The same date of Feb. 17th is listed under the Marilyn Monroe WorthPoint link which was also linked to the 1972 oil painting. The written statement blue is “Last visited on Feb. 17, 2016. Plaintiff’s produced the Feb. 20, 2016 email referencing the Feb. 2016 Google print out in Plaintiff’s evidence 00038. The actual Google print out with the statement “ *You visited this page many times. Last visited Feb. 17, 2016* “ was produced to both Defendants in Plaintiff’s evidence 00033, Plaintiff’s evidence 000035B 000075A and is in Plaintiff’s Deposition Evidence 000370 with an expanded view of the date in 000371. This Google print out with the Feb. 17, 2016 date refutes and contradicts Mr. Seippel’s No. 5 Declaration statement, in which Mr. Seippel claims the false post was removed on Feb. 4, 2016. Plaintiff on Feb. 17, 2016 first visited the 1972 oil painting page and also visited the 1972 oil webpage site linked to the Marilyn Monroe 1988 WorthPoint webpage. In Mr. Seippel’s Declaration statement # 6. Seippel wrote “*On February 20, 2016 I received an email from Plaintiff Trombetta which stated that a reference to the title of the Allegedly Infringing Auction Listing remained visible when she conducted a “google search for the painting “1972 Original Oil Painting Man with Red Umbrella signed Annamarie Trombetta.” Shortly thereafter, on March 1, 2016 I responded to Plaintiff Trombetta’s February 20, 2016 email and informed her that “we have taken down any pages that you have asked to have taken down as a courtesy to you” and that any reference to the Allegedly Infringing Auction Listing in her Google search reflected the past” and was the result “of that search engine memory.”* In Plaintiff’s Feb. 20, 2016 email was an active link for the fake 1972 internet ad and included this active, live link in my Feb. email. Further in WorthPoint’s evidence WP000134 there is proof that the false link was on the internet in 2017. On Jan. 4, 2017, Plaintiff sent an email to Will Seippel. Mr. Seippel failed to respond to me.

<http://www.worthpoint.com/worthopedia/1972-original-oil-painting-man-red-4892417>,

It is evident Seippel's 2020 Declaration contradicts the evidence produced by his own attorneys in WP00062 and Evidence. WP00096 which is Mr. Seippel's Feb. 20, 2016 response to Plaintiff first email to Mr. Seippel also dated Feb. 20, 2016. Mr. Seippel's Declaration filed with the Court in Doc. 61-1 the three elements of fraud 1 -A lie or falsehood is made. 2- By the defendant with scienter, and the statement is false, or that there is no basis for believing that the information is factual. 3- The defendant intends to cause the plaintiff to do or not do some particular act based upon their falsehood and lies.. Will Seippel's Declaration was filed in support of Seippel's Motion to Dismiss Plaintiff's claims.

This caused the Plaintiff to address and filing a response with the Court to confront (ie to do some particular act based upon their falsehood or lie.) and to maintain the claims in my case. As a consequence of Mr. Seippel's false misrepresentation of the facts, Plaintiff's efforts and time were diverted to file responses to Seippel false Declaration, in order to prevent the dismissal of my case. Plaintiff's evidence in this filing reveals Mr. Seippel's Declaration is not factually correct.

4) FRAUD ~ COUNT IV ~ FOURTH FALSE WRITTEN MISREPRESENTATION

Plaintiff's fourth claim of fraud and false written misrepresentation is regarding the visual copyright



symbol vector © along with WorthPoints' statement

© Copyrighted work licensed by WorthPoint" that is depicted to the left.

In general the definition and use of a "C" with a circle around the letter, or use the word "copyright," by any party, indicates to all and is notice to the public that the work is copyrighted and that the party/parties using the © is/ are the owner of the work. This false use a copyright symbol with my name and biography harmed me and absconded my exclusive copyrights while concurrently and falsely associating me with eBay, WorthPoint and Estate Auctions Inc., companies selling low quality goods. In Discovery, I addressed my concerns.

Plaintiff begins with my first set of interrogatory questions WorthPoint's produced responses on April 8, 2022 to illustrate my questions with Defendants answers.

Plaintiff's Interrogatory #10. Present and specifically identify what the WorthPoint Corporation's has copyrighted by the statement "Copyrighted work licensed by WorthPoint" with the copyright symbol vector © that was in added to the 1972 Original Oil Painting Man With Red Umbrella " that was misattributed to the Plaintiff Annamarie Trombetta. Ex. What in particular is being copyrighted by WorthPoint Corporation?

WORTHPOINT'S RESPONSE: *WorthPoint objects to this Interrogatory on the grounds that it includes multiple requests under the guise of one. WorthPoint objects to this Interrogatory on the grounds that it incorrectly implies that WorthPoint misattributed the subject painting to plaintiff, which is expressly denied. WorthPoint furthermore objects to this request to the extent that it seeks a legal conclusion. Moreover, WorthPoint is not sure what the Plaintiff is seeking in this interrogatory as use of a copyright symbol is not the act of copyrighting a work.*

On July 1, 2022 WorthPoint attorneys responded to Plaintiff's second Requests and wrote the following statement regarding the "© vector symbol and the phrase "Copyrighted work licensed by WorthPoint" which clarified what the © copyright vector was intended to convey,-BELOW

WorthPoint's attorneys wrote on July 1, 2022 :

"you appear to be under the impression that WorthPoint is claiming copyright in the subject artwork, which Estate Auctions sold. WorthPoint is not claiming any copyright in the artwork or the listing. The notation "© Copyrighted work licensed by WorthPoint" means that it is somebody else's copyrighted work and that WorthPoint licensed the right to reproduce it. As you can see from the confidential licensing agreement produced to you, WorthPoint has a contract with eBay's authorized distributor to download and publish certain information about past eBay listings. The subject listing was one of such eBay sales results that were mass-downloaded and posted as per WorthPoint's licensing agreement. "© Copyrighted work licensed by WorthPoint" is automatically placed by the computers on all such downloaded licensed listings.

Plaintiff is the "somebody else" whose copyrighted works were NOT authorized by to license.

For the record Plaintiff has never licensed my self authored biography at any time to another party. WorthPoint's explanation and description does not justify the use of my name, the use biography next to the Copyright symbol with WorthPoint's licensing claim.

The next issue Plaintiff brings to the Courts attention is the subject of the source of the eBay sales information . As noted aforementioned, Plaintiff, on Feb. 3, 2016 spoke with Greg Watkins, WorthPoint's official webmaster. Mr. Watkins stated that WorthPoint's "middleman" for obtaining information was Terapeak. Moreover, on April 8, 2022 WorthPoint's attorneys

produced bates stamped evidence titled WorthPoint Evidence titled “Confidential- trombetta-
terapeak- extract as WP000038, WP000039, WP000040. WorthPoint used the Terapeak name
 in their Confidential documents that contain Plaintiff’s full biographical text. WorthPoint has
 no right to be labeled my biography as Confidential. WorthPoint has absconded my copyrighted
 information without my CMI and is using my full biography as evidence in this case. The
 EAI ad s on WorthPoint’s website was duly noted by the Plaintiff to the Court as being
 truncated mid sentence. The ad and the bates stamped evidence using the name Terapeak differ in
 size and content from actual content in the ad that was on WorthPoint website . WorthPoint
 explanation is that they did not modify the text taken from Terapeak . My attempt to clarify was
 who likened my biography met a generic reply. On July 1, 2022 WorthPoint’s attorneys
 responded to Plaintiff’s No. 5 Interrogatory Plaintiff’s Request No. 5 Submit name of the
 Terapeak department contact source for the "1972 Original Oil Painting Man With Red Umbrella"
 that was bought by WorthPoint Corporation.

RESPONSE: WorthPoint has no responsive information. Again, licensed listings are mass-downloaded and not individually licensed. WorthPoint does not have information as to which department at Terapeak, if any, was in charge of licensing any particular listing.

On August 15, 2022 Plaintiff addressed the issue of WorthPoint’s licensing rights again .

Plaintiff’s Interrogatory No. 6

What is the basis for WorthPoint Corporation's claim for licensing rights for mass downloading?

WORTHPOINT’S ANSWER: WorthPoint objects to this request on the grounds that it exceeds the scope of a permissible Interrogatory under the Local Rules of the Southern District of New York. Subject to, and without waiving the foregoing objections, WorthPoint states that it licensed the right to republish certain eBay data from its licensing partner identified in WorthPoint’s Production, WP000001-000035, which documents also set forth the terms under which WorthPoint may download and use the subject “eBay data”.

On Feb. 20, 2016 in a dated email response from Mr. Seippel to Plaintiff’s Seippel said “ We unfortunately do not take the data from eBay you are asking for. I do not think that data actually exists anywhere at this point as we are the only persons that have saved this to my knowledge.” Plaintiff notes to the Court, my interrogatory did not mention or ask about “eBay”

rather the Defendants set forth “ the subject eBay data. WorthPoint’s attorneys’ response in 2022 contradicts Mr. Seippel CEO and owner of WorthPoint, statement in 2016.

Plaintiff’s Interrogatory regarding WorthPoint’s licensing agreement on August 15, 2022 was attempted once again in the following question.

Plaintiff’s Request No. 6:

Produce all documents of or relating to the “ 1972 Original Oil Painting Man With Red Umbrella that were mass downloaded per WorthPoint’s licensing agreement.

RESPONSE: WorthPoint objects to the characterizations employed by this to the extent that it implies that a single listing may be mass-downloaded. Subject to and without waiving the foregoing objections, WorthPoint refers plaintiff to its document production, Bates Stamps

WP000038-WP000040. WorthPoint is not in possession of any further responsive documents.

Once again, WorthPoint’s WP000038-WP000040 response refers to Plaintiff’s complete text of my biography that WorthPoint unethically obtained and are now using as Confidential evidenced deemed to be WorthPoints. The emotional harm and stress that is inflicted by Defendants continued attempts to dominant and gain possession of my self authored copyrighted biography is yet another violation and infringement. WorthPoint’s responses are based in WorhtPoint’s falsehood and assumptions that are not legally valid and are devoid of copyright laws and licensing standards in legitimate agreements . WorthPoints claims are undefined for their own personal gain and conceal their infringements against valid copyright owners.

In Plaintiff’s Evidence 000406 is a Declaration by Will Seippel in another case filed 03/02/15 Page 3 of 4 Page ID #:74 for Case 2:15-cv-00112-MWF-E Document 21-1. In March 2015 Will Seippel claims to have a contractual agreement with Terapeak which is the company named in 2016 by the WorthPoint Webmaster Greg Watkins. Plaintiff, during Discovery was in pursuit a the Terapeak licensing agreement . Plaintiff was reliant on the information of the WorthPoint employee Greg Watkins and the legally documented WorthPoint Terapeak agreement duly documented in the Declaration of Will Seippel in 2015. Allegedly the eBay sale took place in 2012 and I spoke with Mr. Watkins and asked who was the “source” or middleman for the 1972 oil ad in 2016.

Below is an excerpt from Plaintiff’s Evidence 000406 is 2015 Declaration by Will Seippel

7. Much of the data in the Worthopedia was obtained pursuant to a contractual agreement between WorthPoint and the Canadian Company Terapeak, line. ("Terapeak"). WorthPoint's contract with Terapeak was not executed in California and does not rely on California law.

2- The explanations above by WorthPoint Defendants have no basis in reality and in believing that the WorthPoint's information is factual. The attorneys keep referencing my copyrighted work as their base stamped confidential evidence. This exemplifies into the another element of fraud. WorthPoint's false presentation of Plaintiff infers that I authorized use to them which is not true particularly since I did not create oil painting sales records. Nothing is authentic and exemplifies WorthPoint's falsehood claims with the intent to cause harm. Both Defendants have absconded my rights and diminished the value of my copyrighted work, unethically used. I owned the copyright and my biography should be only viewed on my personal website or to those I gave written permission. The adherence of a copyright symbol falsely implies WorthPoint has the copyright to use my biography which is a false misrepresentation. This willful and cavalier intent to take over other peoples' rights by circulating a false copyright management information "liberally by general false claims is a prime reason why Plaintiff is requesting Permanent Injunctive Relief.

5) FRAUD ~ COUNT V ~ TANGIBLE CONVERSION (BIOGRAPHY IN CATALOG) TAKING AND MISAPPROPRIATION PLAINTIFF BIOGRAPHY

A) A party has a cause of action for conversion when (1) the plaintiff has an exclusive right of possession, (2) into which the defendant, (3) intentionally, (4) interferes with that right. In general, conversion fraud deals with tangible goods. The Plaintiff's claim for tangible conversion fraud is founded on my exclusive right of possession to my original, self authored biography. It is a "literary work" written in prose, is an individual artistic expression and exists in a tangible form as my self published catalog. My self authored biography is also "fixed" and exists in a digital form on my professional and personal website. A fraud conversion claim is applicable to

intellectual property rights if it is merged in the physical form and in this instance it is. My infringed biography exists in two personal tangible forms. Violations occur when a person without authority or permission intentionally takes the personal property of another or deprives the Plaintiff of the possession of my exclusive rights to my self authored biography in my personal catalog. Plaintiff produced to both Defendants in Plaintiff's Evidence 000086 to 000107 my catalog that has my same personal biography that was infringed by Defendants. WorthPoint Evidence titled "Confidential-trombetta-terapeak-extract WP000038, WP000039, WP000040 contain the statement "All of the imagery in this catalog was either created en plein air or from the subject directly." My statement referencing my catalog is in every version to include the Defendants EAI and WorthPoint's and their Confidential evidence. using my biography Both Defendants included and reference my catalog in the false ad for the 1972 oil painting and both Defendant s partook in the improper and unauthorized relocation of personal property.

B) There are two "improper" connotations and uses by the Defendants regarding my biography. First and foremost, I did not paint the 1972 Original Oil Man With Red Umbrella nor did I sign the painting. This is a proven fact. Plaintiff produced my childhood signature . It is in Plaintiff's evidence 000260, 000316 also in script and print number 000495. The EAI signature in red produce in Discovery by EAI, in April 2022 , misspells Plaintiff's first name and adds a space between ANNA and MARIA. The use of my personal self authored biography is "Improper" as it is wrongfully applied , I am not the artist who created. the 1972 oil. This conversion as aforementioned is unauthorized in every way. The EAI use of Plaintiff's biography was for commercial and selling purposes for a damaged 1972 oil painting. In like fashion, WorthPoint's website's chief purpose is to report the " commercial sales records" of items sold on eBay. WorthPoint has a membership charge in order to view the sales price. It is not free to see the selling price. Both Defendants have used my biography for commercial gain, ergo it is not fair use, rather both Defendants perceive my name and biography as "fair game and falsely claim " fair use . Plaintiff's I self expression in my biography is original was never authorized to be used by

Defendants as such . As a consequence of the unauthorized use of Plaintiff ’s biography by both Defendants, WorthPoint Corp. in particular, lost a sale of artwork to a prominent collector who most likely would donate her collection to a public museum. The financial and professional adverse effect that the infringement had on Plaintiff (copyright owner) ability to earn income resulted in sustained inequitable financial and professional losses.

C) To make a claim for conversion, a plaintiff must show “(1) the appropriation of another’s property to one’s own use and benefit, (2) by the intentional exercise of dominion over it, (3) in defiance of the true owner’s rights.” (internal citation and quotation omitted) . Defendants have produced as “Confidential “ WorthPoint evidence as WP00038, WP00039 and WP00040 which contains the Plaintiff’s complete biography as it is in my catalog and on my website. Defendants titled this document “Confidential-trombetta-terapeak-extract. Plaintiff brings to the Court attention the reason why I was requesting the WorthPoint Defendants to produce the “Terapeak “ licensing agreement for two reasons. First Defendants’ evidence labeled my biography as Terapeak extract. Second, on or around Feb. 3, 2016 Greg Watkins is duly recorded as stating that eBay gives date to s the middleman “Terapeak” or source for WorthPoint’s information. Plaintiff throughout this seven year ordeal has heard multiple answers to the very simple questions. In some cases there are multiple responses to one question or request. th “habit” or “technique” of multiple , differing answers is now collectively presented to the Court in each count of Plaintiff’s claims for fraud .

D) Defendants and their attorneys present yet another contradiction to the Court regarding the Plaintiff’s biography and it’s length. Despite the visual documentation within the WorthPoint webpage for the 1972 oil painting that reveals the last sentence was cut off and ends in four numerous dots, both Defendants are now claiming that Plaintiff’s biography was fully used in the original ad. For the sake of brevity, I will leave this claim to the Defendants to explain in detail. On the WorthPoint website webpage duly documented and in all of the Plaintiff’s emails to Will Seippel and Greg Watkins, the last visible sentence of my biography on the WorhtPoint website for the 1972 damaged oil painting webpage ad was “*Viewing so many different cities and cultures in a concentrated period of time*” The second half of my sentence was truncated and which is

helped me to see the similarities as well as the differences of each quite clearly". The rest of my biography was not visible. Plaintiff notes to the Court that WorthPoint's Confidential "Terapeak Extract" contains my entire biography. The last ending biographical sentence in WorthPoint's evidence and also now deemed WorthPoint's "Confidential" evidence is

~ " *These individuals include Everett Raymond Kinstler, Raymond Steiner, Harvey Dinnerstein, Burton Silverman, the artist's in The Painting Group particularly Aaron Shikler, David Levine, Danny Schwartz, Irene Hecht. I thank them for their help and guidance in my life.*
 ~

On my website's biography page, this last sentence has my copyright statement "***All work on this site are ©Annamarie Trombetta. All rights reserved***". WorthPoint's self designated labeling of my copyrighted property should not be considered "the confidentiality designation 'Confidential' that is proprietary to WorthPoint. "WorthPoint's documents are devoid of any indication of any designated legitimate source. WorthPoint took the very first to the very last word of my copyrighted biography on my website and left out my statement "All work on this site are ©Annamarie Trombetta. All rights reserved." which is my CMI. The content of WorthPoint's falsified Discovery documents is in fact the text of the Plaintiff's copyrighted biography and therefore, it is the Plaintiff's copyrighted property. WorthPoint's alleged evidence that is deemed "Confidential" contains 1354 words from the Plaintiff's full biography. To prove conversion that claim out, a plaintiff must allege: "(1) the property subject to conversion is a specific identifiable thing; Plaintiff gives a personal, detailed description of my life experiences, from childhood (Regina Pacis Church) to my formal training in high school at the Brooklyn Museum and ending with the names of my personal esteemed colleagues in the art world. (2) plaintiff had ownership, possession or control over the property before its conversion; and Plaintiff's catalog and website were printed created in 2003. The EAI ad for the damaged 1972 oil painting (albeit incorrect) was allegedly sold in 2012, which was nine years after my website biography and catalog were created. (3) defendant exercised an unauthorized dominion over the [property], to the alteration of its condition or to the exclusion of the plaintiff's rights." Moses v. Martin, 360 F. Supp. 2d 533, 541 (S.D.N.Y. 2004) (citation and internal quotation marks omitted). The "conversion " and addition of the EAI introduction and the

description that precede the Plaintiff true biography of the damaged 1972 oil painting (albeit incorrect) is roughly 230 words was allegedly created to sell a painting in the year 2012. Plaintiff's biography on WorthPoint's website was roughly 420 words. The word count for my entire biography is roughly 1360 words. Moreover, WorthPoint Corp website and webpage added a copyright vector "©Copyrighted work licensed by WorthPoint" which had the WorthPoint logo. The copyright vector and statement infers that WorthPoint and Plaintiff have a business agreement which misrepresents the Plaintiff and is a false association. It is precisely this unauthorized and incorrect conversion that constitutes fraud.

6) COUNT VI FRAUD ~ CONTRADICTION WRITTEN DISCOVERY RESPONSES MISREPRESENTATIONS TO PLAINTIFF CONSTITUTING FRAUDULENT CONDUCT

Throughout this case Plaintiff has repeatedly requested WorthPoint's attorneys to produce simple requests in writing or in documented evidence. On many occasions WorthPoint's attorneys set forth "Boiler Plate" responses to Plaintiff's legitimate questions. One subject in particular pertains to the date, year and essentially the time frame indicating when WorthPoint "ingested" as Ms. Farmer wrote, the internet posting on WorthPoint's website for the "1972 Original Oil Painting Man With Red Umbrella eBay sale by EAI.

Plaintiff requests throughout the Discovery period began in Feb.2022. I set forth my dated Interrogatories and Production of Doc. requests before the Court. My request for the day, month and year for the false link and when it was added to Defendants website has been consistent. The significance to the length of time Defendant's circulated "false" copyright management information with my name is relevant to the extent of liability and is contingent upon the length of time that the false post was on the WorthPoint website. Knowing the date when it was posted may potential increases Plaintiff's damages pertaining to the circulation of false information and false copyright information. Below are Plaintiff's direct requests for the time, month year, when the 1972 listing was posted on WorthPoint;s webste to Defendants' attorney.

PLAINTIFF'S FIRST RESPONSES FROM DEFENDANTS ON APRIL 8, 2022 FOR DATE OF 1972 OIL PAINTING POSTING ON WORTHPOINT'S WEBSITE

On **April 8, 2022** Plaintiff's first set of Interrogatory requested the times months, and years :

Plaintiff's Interrogatory 4. List and describe WorthPoint Corporation's historical meta data from 2011 to 2018 to include the times, months and years when the WorthPoint ad for the "1972 Original Oil Painting Man With Red Umbrella " was added to the www. worthpoint.com website and internet. Include the dates and written proof ,meta data-for the ad.

WORTHPOINT'S RESPONSE: *WorthPoint objects to this Interrogatory on the grounds that it is vague, ambiguous and incomprehensible in its entirety. WorthPoint objects to this request on the grounds that it is, in part, a request for production and not an Interrogatory. WorthPoint objects to this Interrogatory on the grounds that it incorrectly implies that the subject listing was an advertisement as opposed to a record of a past sale. **Subject to and without waiving the foregoing objections, WorthPoint is not in possession of any information as to any metadata related to the subject listing.***

Also on **April 8, 2022** which is the first set of Interrogatory in Plaintiff's requested

Plaintiff's Interrogatory # 5. Identify, list and provide proof in writing detailing the month , year and length / DURATION of time that WorthPoint Corporation listed the misattributed "1972 Original Oil Painting Man With Red Umbrella " Oil Painting .

WORTHPOINT'S RESPONSE: *WorthPoint objects to this request on the grounds that it is, in part, a request for production and not an Interrogatory. WorthPoint objects to this Interrogatory on the grounds that it incorrectly implies that WorthPoint misattributed the subject painting to plaintiff, which is expressly denied. Subject to and without waiving the foregoing objections, at present **WorthPoint cannot respond with certainty as to the date the subject listing was posted to WorthPoint's website. It was removed on February 4, 2016.***

PLAINTIFF'S SECOND RESPONSES FROM DEFENDANTS ON **JULY 1, 2022** FOR DATE OF 1972 OIL PAINTING POSTING ON WORTHPOINT'S WEBSITE

On **July 1, 2022** Plaintiff's second set of Request for Production was

Plaintiff's Request No. 1:

Produce and/or Identify in writing the month and year when the "1972 Original Oil Painting Man With Red Umbrella WorthPoint Ad " was uploaded to the internet.

WORTHPOINT'S RESPONSE: *WorthPoint is not in possession of any responsive documents or information.*

On **August 15, 2022** Plaintiff received Defendants Response to my Production of Documents

Plaintiff's Request No. 1:

Produce and/or Identify in writing the month and year when the "1972 Original Oil Painting Man With Red Umbrella WorthPoint Ad " was uploaded to the WorthPoint website. If you claim that part of any response is privileged or otherwise immune from discovery; (a) identify the grounds for your claim of privilege or immunity (b) identify the privileged

documents or Photographs (c) provide all information which responds to this request and does not fall within your claim of privilege or other immunity.

WORTHPOINT'S RESPONSE: *WorthPoint is **not** in possession of any responsive documents or information.*

Plaintiff brings to the Courts attention this subject of the date and year when WorthPoint posted the 1972 Original Oil Painting on WorthPoint's website with relative reason. On August 23, 2022 in Doc. 267 Jana Farmer filed a letter with the Court. On Page 1 in bold type is written

***“ No information as to how long the listing was “on the Internet”:** Ms. Farmer wrote “ Plaintiff also noted that defendants did not state how long information about the sale of the subject painting was on the Internet. WorthPoint responded that it does not control the Internet, and WorthPoint does not know what other parties may have posted on their websites. Thus, WorthPoint could only respond approximately when the subject data about the eBay listing was ingested into WorthPoint's systems and when it was removed.”*

I note to the Court, Plaintiff responded to Ms. Farmer's letter to the Court and filed letters addressing the dates in Doc. 270 filed on August 25, 2022 and in Doc. 274 filed on August 29, 2022 and documented my request for this date. It has been met with the same response by WorthPoint's attorneys once again claim :

“WorthPoint is not in possession of any responsive documents or information.”

First I remind the Court that WorthPoint's attorneys consist of three separate people, Adam Bialek, Jana Farmer and Nicole Haimson. The date that Plaintiff sought and the responses were given by all three of WorthPoint's attorneys. I regret to inform the Court that upon viewing evidence there is a definite designated date for WorthPoint posted the 1972 oil painting ad. Plaintiff sets forth the day, month and year to be March 5, 2013, as the time when the 1972 Original Oil Painting Man With Red Umbrella was posted on WorthPoint's website.

If WorthPoint had just one attorney, and the one attorney overlooked this date, one might surmise this was a simple mistake. To reiterate, I asked the same question at three different times and all of three of WorthPoint's attorneys denied knowing the exact date when the 1972 listing was posted to WorthPoint's website. Plaintiff now adds a willful denial, omission and or a knowledge of a falsity in which caused the Plaintiff is reliant upon the Defendants for pertinent information that effects the degree of damages in my case. The request of this significant information has

been a constant by the Plaintiff. The absence of a non defining period of time minimizes the liability for the infringement caused by the Defendants. Collectively, with the other counts of fraud preceding this finding, Plaintiff is inclined to infer negligence, recklessness conduct that is also unprofessional and unethical. Plaintiff feels at this point, any alleged evidence produced by the Defendants is suspect to be questioned. To deny not knowing the date after a letter was filed with the Court on this subject, is a direct false accusation by WorthPoints attorneys that jeopardized the integrity and character of the Plaintiff in the eyes of the Court and in the public filings. Aside from this Plaintiff was forced to respond and find the time to write letters to the Court to assuage the Defendants accusations against the Plaintiff. Given the numerous times I have requested the day-month year WorthPoint;s website posted the 1972 oil painting eBay sale, I assert that Defendants either willfully concealed this information or were negligent in viewing this information. Each plausibility, has harmed the Plaintiff . I will leave it for the Court to judge this misrepresentation. Plaintiff' was reliant upon the Defendant not to receive such direct and misleading contradictory responses. To date the multiplicity of contradictory responses by both Defendants contributes to Plaintiff's emotional and physical distress that has delayed filing my Proposed Amended Complaint. I have been suffering profusely from emotional distress since I was abruptly and improperly served an additional summons and complaint on August 30, 2022 from WorthPoint; a complaint riddled with incorrect statements and filed in a state I have never entered.

7) COUNT VII FRAUD ~ WORTHPOINT'S FRAUDULENT CONDUCT BY

OMISSION OF 2017 EMAIL RESPONSE FROM WILL SEIPPEL OR JASON PACKER

The next issue Plaintiff presents to the Court has to do with WorthPoint's omission of a response to Plaintiff's Jan. 4, 2017 mail sent to Will Seippel to inform him the false 1972 internet link was on the internet again (Defendnats' Evidence WP000132 WP000133) . Despite my email outreach to Will Seippel on Jan. 4, 2017 regarding the reposting of the 1972 Original Oil Painting, Plaintiff never received any response from anyone at WorthPoint Corp. In April 2022, WorthPoint's attorneys produced Plaintiff's Jan. 4, 2017 email. I saw written

communication between Will Seippel and Jason Packer on Jan. 4 and 5 2017, confirming the internet post for the 1972 oil painting yet no one responded to my email in 2017. On Defendants' evidence in WP000134 there is verified proof of Plaintiff's claim that the 1972 Oil Painting internet post was reposted and seen publicly on the internet. The failure by Will Seippel and WorthPoint Corp. to contact or respond to the Plaintiff and failure of r, to permanently remove the reported false 1972 Oil Painting has contributed to my assertions that Mr. Seippel did not respond. He did not inform me there was a technical problem or that WorthPoint was working on this issue. The willful silence by WorthPoint was alarming.

Plaintiff reminds the Court of Mr. Seippel Declaration in Doc. 61-1 filed on June 29, 2020, Seippel alleges in No. 5. *"In or around January 2016, I became aware that Plaintiff Annamarie Trombetta contacted WorthPoint regarding an auction listing to the Worthopedia that the alleged infringed her copyrights (hereinafter, the "Allegedly Infringing Auction Listing"). And. on or around February 4, 2016, I caused the Allegedly Infringing Auction Listing, which was displayed at*

*<http://www.worthpoint.com/worthopedia/1972-original-oil-painting-man-red-4892417>, to be **permanently deleted from WorthPoint's website. Once delete, the Allegedly Infringing Auction Listing was never reposted to Worthopedia.**"*. WorthPoint's evidence in WP000134 affirm that Mr. Seippel Declaraion claim that WorthPoint "PERMANENTLY DELETED" false 1972 oil painting post is indeed yer another false misrepresentation to the Court and the Plaintiff.

It is now evident that in 2017, the lack of an email response by WorthPoint, was willful and deliberately done to avoid or conceal the fact that WorthPoint looked up and knew the 1972 Oil Painting link was on the internet again. WorthPoint never admitted to any mistakes or issued any apology at any time. If this was done, Plaintiff would not assert willful concealments and omission. It is in litigation and in reading the Discovery that Plaintiff saw the Jan. 4 and 5th 2017 communication between Mr. Seippel and Mr. Packer. As a result Plaintiff has endured a

plethora of problems. I suffered personal, emotional, professional and financial losses beyond

Plaintiff ends the subject of Fraud and Misrepresentation by noting to the Court that all of the Defendants evidence is has been deficient or missing a significant component that prohibit the Defendants evidence from being verified. Evidence such as the Jan. 4th and Jan. 5, 2017 email between Will Seippel and Jason Packer was not known to the Plaintiff until it was produced in 2022. Additionally, the denial by all three of WorthPoints' trio team of attorneys regarding the day, month and year posting of the false link on WorthPoint's website was indeed brought to their attention and that of the Court numerous time. All Plaintiff's inquires did not prompt any of the attorneys to review any evidence to find the day, month and year to be March 5, 2013, when the 1972 Oil Painting Man With Red Umbrella was posted on WorthPoint's website.

A. FIVE ELEMENTS OF FRAUD RELATED TO WORHTPOINT CORP .

1. Misrepresentation— WorthPoint's false references to the Plaintiff as the artist of the 1972 oil painting—ie fraudulent copyright management information (CMI) on the WorthPoint website, This is one of the root causes of this lawsuit. To remove the fake ad, Plaintiff followed the instructions from Defendants staff to report and remove fraudulent content from the WorthPoint website and the internet to no avail. WorthPoint deceived the Plaintiff into believing that the WorthPoint website technical support services and their staff would assist in immediately and permanently removing the fraudulent listing from the internet which was repeatedly requested by Plaintiff. WorthPoint's present inability to produce their own records, receipts and computer data that the Plaintiff submitted is proof that their information and directions misrepresented to the Plaintiff ways to permanently remove the fraudulent 1972 oil painting links. WorthPoints' denial of the date, month and year when WorthPoint's website posted the ad for the 1972 eBay sale is a direct false misrepresentation to the Plaintiff who is reliant upon Defenadants for said information

2) Knowledge of the material falsity - Since August 2015 Plaintiff has consistently pursued both Defendants, particularly WorthPoint by reporting and requesting to remove the fraudulent internet listing of 1972 oil painting and to find out and confirm who was the eBay seller. Defendants admit they never had photos of the painting. As a registered DMCA agents, WorthPoint is responsible for adding and removing the CMI to any content. The use of the WPC logos and using the copyright vector with the term "*copyrighted work licensed by WorthPoint*" without any photos or verified proof to the artist signature is an example of willful recklessness misrepresentation. Registered DMCA agent are required to know the rules for copyright and licensing claims and to immediately cease and desist and remove reported false infringements. Plaintiff's continually contacted WorthPoint from August till Nov. 2015. On Jan. 22, 2016 I directly informed Ms. Brooks and followed her instructions and sent emails by WorthPoint's website.No one contacted me despite leaving phone messages and emails .On Feb 1, a direct phone call led to the start of the removal which still took weeks. Removing items from a website should not produce complications, waste so much time or surface on the internet after if the

item was properly removed. Defendants within this lawsuit are implementing a delay and deny tactic, same as that experienced by the Plaintiff back in 2015 to 2017. WorthPoint's failure of to produce their own take down tickets and emails dated on and after Jan. 22, 2016 that I sent using their website address reveals a pattern to conceal the material evidence and the falsity of WorthPoint's knowledge that WorthPoint removed Plaintiff's false listing on Feb. 4, 2016.

3) Inducing the other party to rely upon it. In 2015 and 2016, the defendants misrepresented and misdirecting Plaintiff to 1) contact eBay 2) submit removal/ take down tickets and emails to WorthPoint website 3) speak with Webmaster Greg Watkins who then informed Plaintiff to email to CEO Will Seippel. Plaintiff never failed to investigate the truth of the defendant's statements. Plaintiff was reliant upon the website webmaster/IT tech and staff at WorthPoint to inform Plaintiff that WorthPoint would removed the fake ad. Plaintiff followed through on written and verbal agreements consistently to no avail. Plaintiff was reliant upon the Defendants documented communication via the WPC website. Plaintiff is still reliant on WorthPoint to set forth known evidence that should be in WPC possession. The Defendants absence of evidence and verified proof constitutes an intentional and willful motive to deceive.

4) Justifiable reliance of the other party The Defendants long term failure to permanently remove the fraudulent 1972 ad and links from the internet determined the course of Plaintiff's actions in commencing this lawsuit. The Defendants as DMCA registrants to the US Copyright Office are responsible to uphold the DMCA rules. Defendant Will Seippel Declaration willfully intended to declare fraudulent statements and claim the removal date for the false infringements as Feb. 4, 2016. The Court is reliant upon the Declaration by Will Seippel to determine this case. Defendants documented distortion of Plaintiff's CMI created confusion and duly circulated on the internet for almost 2 years false information. Plaintiff reliant upon WorthPoint to remove false CMI that WorthPoint created.

5) Injuries and Damages. The Defendants False CMI clam under a signature A. Trombetta is a significant causation for this lawsuit. The causation of Plaintiff's losses are numerous. In 2015, at a time of great expansion and artistic opportunities, commissions, articles and sales—and fully immersed in advancing my career, Plaintiff was forced to deal with a destructive and fake internet post. In 2015, Plaintiff lost the sale of an \$8500 oil painting, the opportunity for gallery representation due to the false posting and association with eBay, Estate Auctions 's 99 cents auctions and WorthPoint Corporation. Plaintiff has lost seven years of her life to fight false claims which are still ongoing. Plaintiff is requesting Permanent Injunctive Relief to prohibit the Defendants from using the Plaintiff's name and exhibits filed and submitted for the purposes of this lawsuit or any other images or texts that are circulating on the internet. The Plaintiff's causation of loss generated by this litigation, repeats the same harmful patterns and makes the Plaintiff a consistent victim to the Defendants' fraudulent claims in order to satisfy the Defendants deceptive fraudulent assertions. The loss my time, and all and any related of sales of artwork, the loss of my professional credibility and the time dedicated to this lawsuit is beyond profession and emotional measure and beyond rehabilitation.

Elements of Intentional Infliction of Emotional Distress

The tort of intentional infliction of emotional distress has four elements: (1) the defendant must act intentionally or recklessly; (2) the defendant's conduct must be extreme and outrageous; and (3) the conduct must be the cause (4) of severe emotional distress.

On August 30, 2022 served the Plaintiff WorthPoint Owner and CEO, Will Seippel

with a Summons and Complaint for Intentional Infliction of Emotional Distress. The way in which I was served was not in a typical way. Below is a summary of the server's actions and abrupt way that

I was served a summons and complaint from another state that has no personal jurisdiction.

1) On Tuesday, August 30, 2022, on or around 9:00 a.m. I, was scheduled to be deposed as a party witness in a deposition called for by defendant WorthPoint Corporation and conducted by the attorneys at Wilson, Elser, and Moskowitz, the law firm representing WorthPoint Corporation in the above identified litigation. The deposition took place at Wilson, Elser offices, located at 150 East 42nd street in New York, New York 10017. The deposition was nine hours long.

2) Prior to leaving the lobby at Wilson, Elser, Moskowitz at 150 East 42nd street New York, I reached into my satchel strapped across my shoulder, unzipping the front compartment to obtain my transit metro card. At that time I was about to leave the lobby and began to walk outdoors. While speaking on the phone, I walked outside along Third avenue and 42nd street to proceed home. I had one hand on my cell phone while speaking and had my metro card in the other hand.

3) As I reached the corner of 42nd street, the traffic light turned red which prohibited me and an amass of people from crossing the street. While still speaking on the cell phone with one hand and holding my metro card in the other, I suddenly felt someone tugging at my satchel that was strapped across my shoulder. That sudden movement startled me and I became immediately frightened of being the victim of a pickpocket. I turned around and saw no one in the crowd yet saw pages of papers on the pavement. My thought was these came from the opened compartment of my satchel and picked them up, believing they were papers I had prepared from my nine hour deposition and stuffed them back into the unzipped compartment of my satchel. I was quite shaken by this encounter.

4) Moments later I inspected the papers and realized they were not from my satchel. Someone had dropped these papers near me on the sidewalk or even tried to put them on or in my satchel and the papers fell to the ground. This was perhaps a way to get me to pick up these papers.

5) Upon full inspection at home, I saw that the papers were a complaint of a law suit filed against me in Georgia by WorthPoint Corporation, the party in my New York federal copyright litigation. In addition, it named the owners of WorthPoint Corporation, Will and Shari Seippel whom I have never spoken to or met at any time. I did not see a date of entry or a signature on the bottom of the summons yet know that the absence of a date of entry for service is crucial to the timely response

6) I waited two weeks to see if a mailing of the summons and complaint from Plaintiffs, Will and Shari Seippel or WorthPoint Corporation would arrive at my home address at 175 East 96th Street (12 R) New York, New York. To date, I heard nothing from anyone in Georgia nor did I receive any mail by regular or certified mail that would be a copy of the summons and complaint from Will and Shari Seippel or WorthPoint Corporation.

7) Concerned of what would happen if the Georgia legal matter would proceed in this matter in which I believed I was completely improperly served, I contacted the Fulton County Superior Court in order to find out if an entry of an affidavit of service was ever filed. One source in particular called me back. Upon hearing that I was improperly served as a courtesy the employee in the civil rights unit at the Fulton County Superior Court, Mr. E Brian Watkins, emailed me the Affidavit of Service Index No. 2022CV 366175. See attached here to

8) When I perused the Affidavit of Service, I read what the process server had documented on Tuesday August 30, 2022 at 7:45. The process server stated: "I asked the DEFENDANT whether he/she was in the military service of the United States Government, or of the State of New York. and received a negative reply". I was shocked to read that, because of course at no time had anybody ever spoken to me on August 30, 2022 at 7:45 or before or any time after. The process server also wrote: "Upon information and belief based upon the conversation and observation as aforementioned that the DEFENDANT is not in the military. This clearly was not true. I was conversing with a friend of mine on my cell [phone call began at 7:40 from inside the lobby before and after I left the building where I was deposed. At no time did anyone speak with me, other than the party on the phone.

The WorthPoint Defendants intentionally served me an unsigned summons with incorrect facts in the complaint that render the listed statements false and incorrect. all due to the lawsuit in The Southern District of New York for Copyright Infringement VARA and the DMCA violations which were ruled on in Dec. 21, 2021. The Defendants did this on a day that I just had a nine hour deposition. As a consequence of this sudden and abrupt lawsuit which was time on the day that I was deposed. Plaintiff has experienced a loss of sleep, a severe loss of concentration which is adversely affecting my ability to keep up with the time sensitive filings for my case in New York. Moreover Plaintiff has never been to the state of Georgia, nor has ever conducted any business there. Despite this, and upon losing much time and energy away from my case and the deposition in New York, Plaintiff even though improperly served, was obligated to respond, or risk the Defendants tactic to Motion for Summary Judgement. On October 28, 2022 Plaintiff held a Meet and Confer and several items were demanded of the Plaintiff which I produced immediately. On October 31, 2022 Fact Discovery for this case was scheduled to end. Defendants wrote a letter to the Court stating and as a result the Court extended the Discovery dates. On the same day of October 31, 2022, WorthPoint's attorneys in Georgia filed a Motion for Summary Judgement. Similar to the overt factual mistakes in the first complaint, the summary judgement stated that I filed a late response on November 5, 2022. which is vitally impossible and clearly incorrect as the date of filing by the attorney in Georgia was on October 31, 2022.

Plaintiff reminds the Court that I have no legal training nor did I ever take any courses in law or legal procedures. I say this because with each filing and with an additional lawsuit in another state of Georgia, Plaintiff has been burdened with the challenge of figuring out how to

respond to the laws applicable in Georgia. These deliberate lawsuits were imposed upon me to derail of exhaust me from my attention toward my case in New York. Regrettably, I am feeling the effects and have been told by friends and family that I keep repeating my statements and that I look so fatigued and disheartened with what has happened to me. I simply did not sign or paint this image. I have a right to have my name disassociated with a damaged painting that is not mine yet bares a similar name. My friends and family can see the difference and note that I am stressed from the tactics and demands from this case

I HAVE HAD TO ENDURE UTTER TORTURE ALL BECAUSE I CHOSE TAKE A STAND AND PROTECT MY OWN NAME AND THE FACT OF MY OWN LIFE SO THAT COMPLETE STRANGERS WHO HAVE DEMONSTRATED RECKLESS BEHAVIOR AND DO NOT HONOR OR ACT WITH INTEGRITY CAN CONTINUE TO INCORRECTLY USE AND EXPLOIT MY NAME FOR THEIR OWN GAINS. IT IS INDEED PUZZLING AND PAINFUL TO THE POINT OF STATING THIS TRAUMA HAS INFLICTED PAIN IN MY PAINTING CAREER THAT IS IRREPARABLE.

Plaintiff due to the unnecessary sudden and litigious imbalances was unable to file my Proposed Amended Complaint due to illness on it's original due date.

TORT CLAIM FIRST COUNT NEGLIGENCE

Negligence is a civil tort which occurs when a person breaches his duty of care which he owed to another due to which that other person suffers some harm or undergoes some legal injury.

Negligence can be explained as the failure of discharge or the omission to do something due to careless behavior.

First Count of Tort Negligence According to CPLR 213(2) the statutes of limitation in New York for civil tort is six years in writing or an oral contract. Plaintiff on Jan. 4, 2017 contacted in writing Will Seippel regarding the re posting and re ingesting the false internet listing for the

1972 Original Oil Painting that was under the Plaintiff's name again. Despite a written documentation of my sent email there was no response from Will Seippel.

WorthPoint's Discovery documents reveal and confirm as duly documented written communication between Will Seippel and Jason Packer on Jan. 4th and 5th 2017, confirming the internet post for the 1972 oil painting yet no one responded to my email in 2017. In Defendants' evidence in WP000134 this verified proof of Plaintiff's claim that the 1972 Oil Painting internet post was reposted and seen publicly on the internet. The failure to properly and permanently remove the false internet post for the 1972 oil painting and the failure to respond or communicate to Plaintiff constitutes .

TORT CLAIM SECOND COUNT NEGLIGENCE

"A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged."

On Feb. 1, 2022 at the request of WorthPoint's attorneys Plaintiff was requested to write a settlement letter. Attorney Anderson Duff duly communicated that his clients were in held up in Bankruptcy Court due to this litigation. Despite being advised to engaged or discuss settlement offers prior to litigation by friends and retired attorneys, Plaintiff did agree to writing a letter. As is Plaintiff;s way I responsibly found out what needed to be included in the Settlement letter. I gave a recap of all my actions to both Defendants . I found cases related to my claims and listed all the damages and rules pertaining to my claims. The letter was quite long as this has been going on for over seven years. Plaintiff wrote out in words the amount Plaintiff was seeking for my settlement offer. Plaintiff did not hear from a any of the attorneys. At the same time Plaintiff was experiencing for the first time ever Vertigo. At the same time due to the stress of interviewing lawyers for possible representation, Plaintiff in addition to the recent Vertigo developed a sty and swollen eye, As a result of the stress from litigation, and the sudden onset of Vertigo, Plaintiff fell and fractured a rib due to this lawsuit and all the unexpected sudden demands that were imposed upon me. I ask the Court to consider the time Plaintiff has lost just to avoid litigation and to have the false listing permanently removed

from the internet. Secondly, I simply did not do this painting and followed the advise of my legal colleague to declare I am not the artist for future documentation and records. Third the major denials of any wrongdoing and infringements in concert with the minor settlement offers by EAI have prompted the Plaintiff to be vigilant in protecting my name and my rights. Plaintiff did not cause these infringement, nor did I immediately file a lawsuit.

EXHIBIT #1 Doctor appointment with Benjamin Tweel for Vertigo

EXHIBIT #2 Emergency Eye Infirmary Visit Sunday Feb. 20, 2022

EXHIBIT #3 Doctor 's Letter and Visit with Benjamin Zaremski Vertigo and fractured rub

As a result this sudden intense bombardment of demands despite honoring my agreement by responsibly writing a letter, none of the Defendants attorneys contacted me regarding my letter. Instead, the attorneys wrote a letter to the Court and falsely stated that Plaintiff did not state a monetary amount, when in truth, Plaintiff most certainly did. The reliance Plaintiff had on the Defendants to be responsive and communicative with the Pro Se Plaintiff was not experienced. Plaintiff did conduct a Meet and Confer as well as emailed the Defendant regarding my eye condition. I did communicate my sudden medical limitations to all the attorneys. The actions of the attorneys falsely conveyed to the Court that I was disrespectful to the laws and rules that I had agreed to producing. Plaintiff notes that this is an assault on my character and that misleading and misinforming the Court was intentional. This problem could have been avoided through simple communication from the Defendants. As aforementioned Plaintiff was experiencing sudden health issues that needed immediate attention. Plaintiff was then order to write another . Settlement letter and was indeed concerned due to threat of sanctions, When your intentions are honorable and responsible, when they are perceived as anything less, injury occurred for the Plaintiff.

Despite failed settlement attempts on Plaintiff during the most recent Nov. 23, 2022 Conference Call, Plaintiff brought up the subject of settlement discussion. bot Adam Bialek and Attorney Anderson Duff immediately rejected any possibilities for any discussions to take place. Immediately, following the Conference Call Attorney Adam Bialeck emailed Plaintiff with the Subject matter regarding on Dec, 2, 2022 citing the copyright Act 505. for attorneys Fees.

reminds the Court that the sum of both of EAI's settlement offers combined equal an amount to be less than three numbers. The willful refusal of the EAI Defendants and their attorney to deny any settlement discussions while concurrently sending emails to the Plaintiff taunting and informing me that they are seeking an award for attorneys fees constitutes emotional distress. I am not the artist who painted the 1972 oil nor should my biography been used to sell this painting.

EXHIBIT #4 Dec. 2, 2022 Email Subject Attorney's Fees from Adam Bialek

EXHIBIT #5 Summons of Complaint in Georgia WITHOUT SIGNATURE

EXHIBIT #6 Complaint in Georgia page 3 of 7 Wrong Dates and Facts for 18-Cv-0993 NYC

EXHIBIT #7 January 11, 2021 Certified Mail Will Seippel

EXHIBIT # 8 Affidavit From Server Freddi Simon

EXHIBIT #9 Summary Judgement in Georgia Filed October 31, 2022

SUMMARY OF ARGUMENT

Plaintiff seven Counts of Fraud are detailed while defining the circumstances and false misrepresentation and the causal losses and harm all of the Defendants fraudulently actions have had on the Plaintiff. The countless mistakes by WorthPoint, can be literally be "counted" as multiple Counts of Fraud defined in Plaintiff's Proposed Amended Complaint. The unending problems, delays demonstrated and implemented by WorthPoint Corp. have been a burden for many years. Plaintiff has been a victim to WorthPoint's bumbling business practices. In litigation of I have been a victim to WorthPoint's chicanery and attempts to inflict both emotional distress and to inflict the financial debt for WorthPoint's legal fees upon the Plaintiff.

CLAIM FOR RELIEF

1. Plaintiff consistently informed all WorthPoint Corp. employees and owner that I did not paint the 1972 Original Oil Painting Man With Red Umbrellas that falsely attributed my biography and signature to be falsely attributed to the aforementioned oil painting.
2. Plaintiff consistently informed all WorthPoint Corp. employees and owner that I was nine

years old , did not paint in oils then and I too small to paint an oil four feet in height.

3. The Defendant's communication to the Plaintiff to contact eBay to remove this false post was a fraudulent communication that the Defendant's used to exploit the Plaintiff reliance on the Defendants while concurrently posting other WorthPoint links Marilyn Monroe under Plaintiff's name on the internet.
3. As stated above , there was never any employer-employee relationship and or licensing agreement between the Plaintiff and the Defendants.
4. At no time did Plaintiff verbally of ever signed or authorize WorthPoint or WorthPoint's Licensee, undefined to be eBay, Terapeak or AERS that any entity could license my biography.
5. Defendants willfully extracted in the guise of evidence allegedly from Terapeak to include my entire biography that allegedly in the 1972 oi painting Man With Red Umbrella
- 6 Hence, the Defendants willfully and intentionally violated the Plaintiff's exclusive copyright to my self-authored artistically expressed biography.
a pattern of repeated activity to willfully repost the false 1972 ad on the internet under Plaintiff's name that is the proximate cause of the individual's harm.
- 7 . In summary no one has the right to alter, change or expose to the public, a false signature or rewrite the chronological facts of my life. No other source can falsely claim a copyright or falsely claim a licensing agreement when no proof of documents of proof to verify such claims exist. This is the root cause for commencing this lawsuit.
8. My case validates the inequitable and adverse effect that one false attribution during an artist's lifetime ccan "BLOCK and IMPEDE" an artist's professional progress and hinder one's status.
- 10, The Discovery evidence and the lack of evidence has continued consume the Plaintiff life, while imposing unending demands upon someone who has been victimized and embarrassed by public identity therft. The misuse my name with malicious intent by the Defendants to burden an artist, who is not a lawyer is overwhelming, particularly since Plaintiff did not paint the 1972 oil painting and produce my 1972 childhood signature.

This lawsuit brings attention to the realization that any "source" can write, state or claim a

false attribution or use an artist's name on a work of art— (or what is ascribing to be art). A great deal of time and many opportunities were lost to refute the false 1972 misattribution, a causal loss that has harmed my integrity, caused me to lose my time, earn a living and blocked my ability to create my own new works of art.

The Discovery evidence and the lack of evidence has continued consume the Plaintiff life, while violating the Plaintiff. The misuse my name with malicious intent by the Defendants to burden an artist, who is not a lawyer with two lawsuits in different states was overwhelming to any lawyer. The timing for such legal obligations and deadlines was deliberately orchestrate to overwhelm the Plaintiff. The voluminous demands and request by the Defendant s for Discovery to invade Plaintiff's personal life, persona, facts and personal and professional contacts warrants the Plaintiff's Request to include Fraud and Permanent Injunctive Relief against Norb and Marie Novicin, EAI and WorthPoint Corporation.

As a Pro Se Litigant, Plaintiff asks the Court to grant my Proposed Amended Complaint to include applicable request to include FRCP Fraud 9(b), and IIED.

Defendants will not suffer undue prejudice from the filing of Plaintiff's Proposed Amended Complaint because **1)** the fraudulent allegations asserted in the Proposed Amended Complaint are more specific and conclusive than that asserted in the Original or Operative Amended Complaints **2)** both Defendants alleged harm to the Plaintiff from the Original and Amended Complaint has **increased** with the new evidence **3)** the more-specific fraudulent definition is being asserted before the close of the Discovery and within the time frame to amend pleadings set out in the modified Scheduling Order **4)** Both Defendants' discovery has only been through admissions, production of documents and interrogatories and

depositions 5) the newly- alleged facts and evidence in Plaintiff's Motion of my Proposed Amended Complaint are already well-known to the Defendants and in their possession. For these reasons, Plaintiffs respectfully ask that the Court grant Plaintiff's Motion for Leave to File the Proposed Amended Complaint to Include for Permanent Injunction and Other Equitable Relief.

WHEREFORE, Plaintiff, on behalf of herself and others artists who have been victimized by WorthPoint Corporation, respectfully request that this Court grant Plaintiff's Proposed Amended Complaint to proceed forward to include Fraud, Intentional Infliction of Emotional Distress and Permanent Injunctive Relief and grant Plaintiffs such further relief as this Court deems just and proper

Dated: December 19, 2022

Respectfully Submitted,

Annamarie Trombetta
175 East 96th Street
New York, New York 10128

—Electronic Signature—

/s/ Annamarie Trombetta

Pro Se Litigant

Annamarie Trombetta